LEGISLATIVE COUNCIL

Thursday 19 March 1992

The PRESIDENT (Hon. G.L. Bruce) took the Chair at 2.15 p.m. and read prayers.

MINISTERIAL STATEMENT: ABC ALLEGATIONS

The Hon. BARBARA WIESE (Minister of Tourism): I seek leave to make a statement.

Leave granted.

The Hon. BARBARA WIESE: At 7 o'clock this morning ABC radio carried a report which has been repeated on subsequent news services alleging impropriety in relation to the video gaming legislation. It is claimed that I, through my relationship with Mr Jim Stitt, have been influenced in my attitude to the gaming machines Bill, and have received financial benefit. I totally reject these claims and any allegation of impropriety in carrying out my ministerial duties.

In the financial year 1986-87, Mr Stitt and I purchased a shelf company, Nadine Pty Ltd. There has never been a business relationship between Mr Stitt and me in the sense that we have engaged in any trading business operation. Nadine Pty Ltd was formed on our accountant's advice as the most appropriate means of owning property, namely, a unit in which Mr Stitt lived in Perth and then when we decided to acquire a house in Adelaide. My interest in these matters has been recorded in the publicly available pecuniary interests statements prepared by me and lodged with the Parliament. Within the last few months shares in a publicly listed company in Western Australia were also acquired in the name of that company.

Until December 1991, the company operated two bank accounts, one in Western Australia, the other in South Australia. It has been alleged that there were six transactions showing payments from Mr Stitt's companies to Nadine. I have confirmed with the accountants who have prepared the annual financial statements for the company that each of these payments were loans made on behalf of Mr Stitt in order to meet some expenses. It has been confirmed by the accountants that I received no personal financial benefit from these transfers. I therefore absolutely refute any allegation or imputation of financial impropriety. The money was loaned to meet shortfalls between rental income and the expenses of owning two properties, in particular mortgage payments and repairs and maintenance costs.

Furthermore, of the six payments into Nadine I note that only two were made after the date on which Mr Stitt was engaged by the Hotel and Hospitality Industry Association. The bank account in Western Australia was closed after Mr Stitt closed his business office there and all transactions since that time have been undertaken in South Australia. IBD Public Relations Pty Ltd, of which Mr Stitt is a director, was engaged by the HHIA in November 1990 as a consultant to advise on public relations matters which included video gaming. Mr Nicolls has alleged that Mr Stitt was employed as a political lobbyist and that he has influenced me in my attitudes to the Video Gaming Bill. Last night when he interviewed me, Mr Nicolls produced a document which he claimed had been obtained from International Casino Services, a company retained by the HHIA to provide advice on gaming machines.

The document suggested that International Casino Services would work in association with IBD (one of Mr Stitt's companies) to 'provide assistance in the enabling legislation and political assistance where necessary'. The document has no relevance whatsoever to anything that has happened in South Australia. I had no knowledge of that document but have subsequently learnt that it was prepared for inclusion with a submission to the Victorian Government in relation to its proposed video gaming legislation.

My relationship with Mr Stitt and his involvement with the HHIA in this State is no secret either to my colleagues or to many others in the South Australian community. My stance on video gaming legislation is also well known. I support its introduction because of the benefit I believe will accrue to the tourism and hospitality industry, and I also support the general terms of the legislation to be introduced in another place later today. As members would be aware, when Cabinet resolved to introduce gaming machines legislation, it appointed the Minister of Finance to draft the Bill and have carriage of the matter on behalf of the Government.

Although I have ministerial responsibility for the administration of the Liquor Licensing Act, I cannot and have not directed the Liquor Licensing Commissioner in the performance of his statutory duties. Since the Liquor Licensing Commissioner has extensive experience and statutory powers to perform under the Casino Act, and the proposed legislation is based on that Act, he has provided advice to the Finance Minister in drafting the legislation. My input has been limited, except on the few occasions the Finance Minister has sought my advice. I have been conscious of the perceived sensitivities involved in this issue. I have been at pains to ensure that there has been no impropriety. My Cabinet colleagues have been aware of my relationship with Mr Stitt at all relevant times. I have deliberately avoided lobbying my Cabinet and Caucus colleagues on the matter. I have confined myself to a peripheral and secondary role in Cabinet discussions on the Bill. I cannot recall participating in the debates in Caucus on the matter.

The passage of the Bill through Cabinet and Caucus has always been the responsibility of the Minister of Finance. Let me repeat: there is absolutely no truth in the allegations that have been made. And let me document now the utterly reprehensible and scurrilous lengths to which this reporter has gone to support this non-existent story. Over a period of weeks he has defamed me and others in his pursuit of information to make his story stand up. When I learnt of his behaviour through others, I contacted ABC radio to complain most strongly, and to demand that, rather than pursuing this sordid and grubby campaign of innuendo and falsehood, he have the decency to confront me with these baseless allegations.

Without warning he phoned me here in Parliament House at a quarter to 11 last night, insisting that he had a deadline and that he was running with a story this morning, and he condescended to give me the opportunity of reply. At 10 minutes to 12 he began a detailed interrogation. This continued for an hour and a half, seeking explicit answers in relation to specific deposits made by Mr Stitt's companies to Nadine Pty Ltd from several years ago. Not surprisingly, I was unable to answer such questions without recourse to the relevant accounts.

Both I and my legal adviser who was present insisted that I would be happy to answer such inquiries if given a reasonable time to undertake the necessary searches. This was not an opportunity Mr Nicolls saw fit to grant. He insisted he had a deadline to meet. One can only conclude such a deadline was self-imposed. I have this morning instructed my solicitors to write to the ABC seeking a retraction, an unconditional withdrawal and an apology.

MINISTERIAL STATEMENT: JUVENILE JUSTICE

The Hon. C.J. SUMNER (Attorney-General): I seek leave to make a statement on the subject of delays in the juvenile justice system.

Leave granted.

The Hon. C.J. SUMNER: A number of initiatives have been and are being taken to reduce delays in the juvenile justice system—delays which have been of concern to Government for some time and about which questions have been raised in the Parliament. The Government's policy position is that there should be the shortest time possible between the apprehension of a juvenile for an offence and the response to that offence by the juvenile justice system in order quickly to bring home to an offender the consequences of his/her action, and to attempt to reduce recidivism.

The issue has been and is being given special attention by the agencies involved; namely, the Police, the Department for Family and Community Services and the Children's Court. When opening a Young People and Crime Seminar on Friday 11 May 1990, I referred to this problem and indicated that I would ask the Children's Court Advisory Committee to examine the issue. The following action has been taken:

- the Children's Court Advisory Committee has examined the issue; its report and recommendations have been endorsed by the Ministerial Group on Crime Prevention;
- a fast-tracking trial has been conducted from the Bank Street Police Station, and an evaluation is currently being finalised;
- the Police Prosecution Section and the Crown Prosecutor's office have re-examined their procedures, especially for section 47 applications (for juveniles to be tried in an adult court); and
- a working party of police, Department for Family and Community Services and Court Services personnel is working on new procedures, as well as revising the operational targets for the completion of tasks at each stage of the process.

It is important to note that not all periods between the various stages of the process of the juvenile justice system should be taken as delays. There is obviously a certain period of time which is necessary to prepare documents and carry out the steps in the process. The establishment of revised operational standards should enable the system to be better analysed for efficiency; that is, to judge whether standards are being met.

Delays can, and do, occur at a number of points, for example, between apprehension and report, between report and screening panel and between a screening panel appearance and a Children's Court appearance, a Children's Aid Panel appearance or a police caution, depending on the decision of the screening panel. Delays can also occur when a juvenile has been summonsed to court and has failed to seek legal advice. Other delays occur while social background reports are prepared for the Children's Court, as well as assessment panel reports if detention is a real possibility.

I seek leave to table the report of the Children's Court Advisory Committee, dated August 1991, together with the Government's response to each recommendation.

Leave granted.

The Hon. C.J. SUMNER: The report recommended the following time frames within which the identified procedures should take place: from apprehension to police report, seven days; from report to screening panel, 14 days; and from screening panel to police caution, 14 days. These standards have now been accepted by the police as operational targets.

The advisory committee also recommended that a working party examine the other elements of the system, namely, the scheduling of screening panels and Children's Aid Panels to reduce the time taken to finalise cases being dealt with in this manner. That work is currently being undertaken and includes a review of the material originally submitted to the Children's Court Advisory Committee by the three participating agencies and which are attached to the report as appendices.

The committee questioned whether there was a need for a summons to be issued after a screening panel determined that an offender should proceed to court. The committee noted that the time taken for the preparation and issuing of a summons and the time given to defendants to seek legal advice were the main reasons for the average period between the date of reporting by police and the date of disposal by the court being about six months. It does not need to be that long.

The working party established as a result of the report is examining amendments to both the Children's Protection and Young Offenders Act and administrative procedures to reduce the time taken for these two processes. Thirty-five per cent of the adjournments of matters before the court are for legal advice and 20 per cent are for the non-appearance of the defendant.

A pilot program to fast-track reoffenders in the central city areas, based on the Bank Street Police Station, was undertaken by police officers between February and July 1991. Unfortunately, it did not achieve its aims because the number of cases selected was too small. It is now being evaluated and another pilot program will be undertaken with the specific purpose of reducing the time that elapses between a screening panel appearance and a Children's Aid Panel hearing or a Children's Court appearance. It is likely to deal with all offenders, not just repeat offenders.

In respect of section 47 applications for children to be tried in adult courts the Crown Prosecutor and the Police Prosecutor's Branch have agreed on new procedures that should see all applications being dealt with in six to eight weeks. Police prosecutions have now agreed with the Crown Prosecutor's office that:

(i) An immediate assessment will be made of the file to determine if an application should be made.

(ii) Juvenile prosecutions will lodge a notification with the Children's Court to prevent a plea being entered.

(iii) Declarations will be called for immediately.

(iv) The complete police prosecution file will be forwarded to the Crown Prosecutor within four weeks.

Additionally, the Crown Prosecutor will, on serious matters involving serious offences, especially involving repeat offenders, take over the prosecution in the Children's Court. This will ensure that the court acknowledges and appreciates the gravity of the crime and the need for appropriate remedial action to be taken in the interests of the community. Police prosecution will be expected to notify the Crown Prosecutor of such cases.

The House of Assembly has established a select committee to examine and report on the juvenile justice system. Obviously, any major changes will have to await that report. In the meantime, the Government believes it is important to overcome any problem of delays and to ensure in appropriate cases that the prosecution is conducted by the Crown

Prosecutor's office. The means outlined in this statement achieve those objectives.

QUESTIONS

GAMING MACHINES

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister of Consumer Affairs a question about poker machines.

Leave granted.

The Hon. R.I. LUCAS: Two directors of International Business Development Pty Ltd, which has been involved in lobbying for the introduction of poker machines in South Australia, are Mr Jim Stitt and Mr Kevin Edwards. International Business Development Pty Ltd has been advertised as having an association with casino and gaming consultants International Casino Services Pty Ltd. Promotional material states that this association can provide 'assistance with the preparation of the enabling legislation and political assistance where necessary'.

Last year Mr Edwards was convicted on charges arising out of the collapse of the Rothwells Bank, which was, of course, an integral part of the sordid WA Inc. scandal. Mr Edwards was an accomplice in crimes with Mr Tony Lloyd, another prominent WA Inc. figure. It is reported in Western Australia that Mr Edwards and Mr Lloyd have been working in Vietnam for another company half owned by Mr Stitt, Investconsult Vietnam Services Pty Ltd.

Until 3 February this year, the principal office of Nadine Pty Ltd was 19 Preston Street, Como, Western Australia. This was also the principal business address of International Business Development Pty Ltd, Investconsult Vietnam Services and Helix Research Associates, a company co-owned by Edwards and Lloyd. Records show that money has been transferred from IBD Pty Ltd direct to Nadine Pty Ltd, which is the company owned by the Minister and Mr Stitt. For example, there is the record of a $1 000 deposit on 16 August 1991 into the account of Nadine Pty Ltd.

My question to the Minister is: what involvement has the Minister had with Mr Edwards and why has Mr Edwards' company been making payments to the Minister's company Nadine Pty Ltd?

The Hon. BARBARA WIESE: First, there is a matter that must be clarified. The honourable member in his question is confusing two companies with which Mr Stitt has had an involvement. One is IBD Public Relations Pty Ltd, which is a company registered in South Australia and which is the company that was engaged by the Australian Hotel and Hospitality Industry Association. That is not to be confused with a company named International Business Development Pty Ltd, which is registered in Western Australia, whose prime business, as I understand it, is matters relating to foreign investment.

I am not absolutely familiar with the business arrangements of either of those companies, although I understand that, at some stage, Mr Kevin Edwards was a director of International Business Development Pty Ltd, the company based in Western Australia. I believe that there was a period of time during which Mr Stitt and Mr Edwards were directors of that company at the same time. I understand that the purpose of that was that Mr Stitt intended to sell that company to Mr Edwards, and I believe that, under company law, it is required or appropriate for the principal of a company in circumstances of this sort to remain involved with the company for a period of time before a transfer can take place. I may be inaccurate in presenting this information, as I have indicated that I do not have a detailed knowledge of Mr Stitt's companies, and I strongly reiterate the point that I made earlier in my ministerial statement: I have no financial interest whatsoever in the companies in which Mr Stitt has an involvement, for the purposes of conducting his business.

As I understand it, Mr Kevin Edwards and Mr Tony Lloyd both appeared before the Western Australian royal commission, and I understand that charges were laid against them under the Australian Securities Commission legislation, but it is also my understanding that Mr Edwards—and I am not sure about Mr Lloyd—was acquitted of the charges laid against him with respect to breaches of the Companies Code. The same may also be true of Mr Lloyd, but they are matters about which I do not have a detailed knowledge. I have only a passing knowledge of them, based on what I have read in newspaper reports, and the newspaper reports about the cases involving these two people appeared some months ago now, and I do not have a detailed recollection of what I read. But I believe that what I have indicated about the outcome of their cases is correct.

Therefore, the suggestion that the honourable member has made that International Business Development Pty Ltd was a company that was or has been involved in lobbying members of Parliament on the question of gaming machines in South Australia, is not correct, as I understand it. That company has had no involvement or interest in the matter.

In my statement made earlier today I indicated that Mr Stitt has no financial interest in the company known as International Casino Services, a company that has been retained by the Australian Hotels and Hospitality Industry Association and, if I remember correctly, also by the Licensed Clubs Association, to provide consultancy services to those two industry bodies on the question of gaming machines. As I understand it, the principals of that company have extensive knowledge and experience of casinos and gaming matters. I understand that that company has been contracted by those two industry associations to which I have referred for that purpose.

Mr Stitt, through a company of which he is a director, known as IBD Public Relations Pty Ltd—quite a separate company from International Casino Services and International Business Development Pty Ltd—is to undertake public relations work for the Australian Hotel and Hospitality Industry Association. That company is not employed by the Licensed Clubs Association. I understand that the range of matters upon which Mr Stitt has provided public relations advice has varied considerably.

I also indicated in my statement that Mr Chris Nicolls of the ABC, in the interview that I had with him last evening, produced a document (which he did not hand to me and therefore I was not able to peruse its contents), which he purported to be a document prepared by a company known as International Casino Services, and turned to a page in that document where he had highlighted matters in which, as I recall, it was suggested that International Casino Services would work in association with IBD, one of Mr Stitt's companies, to 'provide assistance in the enabling legislation and political assistance where necessary'.

As I indicated in my statement earlier today, and as I indicated to Mr Nicolls last night, I had never seen that document before and I was not aware of its existence. However, having made inquiries about that matter since my interview with Mr Nicolls, I am informed that a document, which included reference to IBD, was prepared some time ago by International Casino Services for inclusion with a submission that that company made to the Government of Victoria when it called for registrations of interest to

assist with the proposals that the Victorian Government had to introduce gaming machines into Victoria. I reiterate, that document and the intentions of that company are totally unrelated to any work that either International Casino Services or IBD have undertaken or are undertaking here in South Australia.

The Hon. R.I. LUCAS: As a supplementary, I can assure the Minister that I am aware of the distinction between International Business Development Pty Ltd, a Western Australia-based company, and International Business Development Public Relations Pty Ltd, a company registered in South Australia. Is the Minister denying that on 16 August last year a deposit of $1 000 was made by International Business Development Pty Ltd, the Western Australia company, into the account of Nadine Pty Ltd, the Minister's own company; and why will the Minister not indicate what association, if any, she has had with Mr Kevin Edwards?

The Hon. BARBARA WIESE: I want to make it perfectly clear that I have absolutely nothing to hide in this matter and, if I missed responding to one of the honourable member's questions, it was not because I intended to leave out information. It is simply because he asked quite a large number of questions and I did not pick up on that. The honourable member asked what is my relationship with Mr Kevin Edwards. Mr Kevin Edwards, who has been a long time member of the Australian Labor Party in Western Australia, is someone whom I met very briefly in Perth, although I cannot be certain of the date.

I was introduced to him and did not have any conversation with him at all. It would have been about 1987 or 1988, when he was an official with the Western Australian Government, that I first met him. I do not recall the capacity in which he was working at that time. I met him at a social function. He was introduced to me and, as I said, we did not have a conversation although I recall having met him. Since that time I have met him on a few occasions because he and Mr Stitt have been involved in some business activity together. I certainly would not describe him as a friend. I do not know him very well at all but I have met him on a few occasions.

As to the amount of money to which the honourable member referred, in my hurry to get from my office to Parliament House today, I have left behind the list of transactions that were presented to me last night by Mr Nicolls of the ABC. So, I am unable to compare the transactions to which he referred. I believe that one of the transactions that was listed by him was an amount of $1 000 from International Business Development to Nadine Pty Ltd on 16 August 1991. I believe the money was transferred, but I will have to check the record again. In my statement, I referred to the six transactions that were raised with me by Mr Nicolls. I indicated that amounts of money were transferred to Nadine by companies in which Mr Stitt has a business interest. I refer the honourable member to my statement on that matter in which I made it very clear that those amounts were loans to Nadine Pty Ltd to meet the shortfall between the rent that was received by the company and the cost of running the properties to which I referred earlier. It was also to meet expenses such as mortgage payments and maintenance and repair costs for the two properties that Nadine Pty Ltd owns.

The Hon. K.T. GRIFFIN: My question is to the Minister of Consumer Affairs. In view of the matters raised on ABC radio this morning suggesting a conflict of interest that the Minister might have relating to the Gaming Machines Bill and notwithstanding her statement earlier this afternoon:

1. Will the Minister welcome an independent inquiry to determine whether or not she has or had any conflict of interest?

2. If an independent inquiry is established, will she stand down as Minister while the matter is investigated and cooperate fully with the inquiry?

The Hon. BARBARA WIESE: I made it perfectly clear in my statement that I do not believe there are any grounds whatsoever for any suggestion that I have acted improperly in my duties as a Minister of the Crown. Therefore, I do not believe that an inquiry is warranted or necessary.

The Hon. DIANA LAIDLAW: During the Government's consideration of legislation for the introduction of poker machines, did the Minister of Consumer Affairs declare an interest at any time?

The Hon. BARBARA WIESE: This is also a matter that I addressed in my statement. I indicated in my statement that it has been a well-known fact—certainly not a secret—among my Cabinet and Caucus colleagues that Jim Stitt has been involved with the Hotel and Hospitality Industry Association. Because it is well-known and because I have not perceived and do not perceive any conflict of interest with his involvement and have not received and do not expect to receive any financial benefit from his involvement in the work that he is undertaking with the Hotel and Hospitality Industry Association, I have not considered it necessary or warranted to declare an interest.

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Tourism a question about the allegations that were made in the media this morning.

Leave granted.

The Hon. M.J. ELLIOTT: Three weeks ago I had a private discussion with the Minister of Tourism about these rumours. In fact, I had a discussion with her and with the AHA as well. I also discussed with the Minister of Tourism rumours about other matters, particularly in relation to Tandanya. In that private conversation I conveyed to the Minister that I had no reason to believe that she had done anything improper or that there had been any improper behaviour whatsoever. I suggested to her that it would be dangerous for her as Minister of Tourism if the insinuations that were being made became public, given that the Minister of Tourism has a direct say in the development projects on which the person with whom she has a relationship, whether married or not, is working and from which he derives a living. Does the Minister acknowledge that, as long as she holds this portfolio, accusations such as this, accurate or otherwise, will continue to surface?

The Hon. BARBARA WIESE: Because of the work in which my partner is involved as a consultant, and because of my position, I have always been acutely conscious of any concerns about any perceived benefit to Mr Stitt or me arising from that. As I say, I have always been acutely aware of the sensitivity of this matter and the need to be extremely cautious and always careful that such a conflict of interest would not arise. Mr Stitt also has been very careful about such matters. On numerous occasions during the time that he has lived here in South Australia, approaches have been made by various companies or individuals who have wanted to engage him as a consultant of one sort or another to advise on certain matters where Mr Stitt has feared that there was the potential for an allegation to be made that there might be a conflict of interest, and therefore he has always been very careful not to take work that would fall into that category.

Mr Stitt has also been very careful to avoid work that would bring him into contact with areas that might have some bearing on the portfolios that I have held, or, at least, influence that might be said to be brought to bear by agencies of Government for which I have responsibility. It is a matter about which we have both been very concerned during the years that he has worked in South Australia, and I believe that he has successfully conducted his business in a way which would not bring him into conflict and which would not compromise me in my ministerial duties or compromise the Government. There is no information that I have at my disposal that would suggest that he has conducted his business affairs in any other way.

On the few occasions when issues have been raised for discussion in Cabinet where Mr Stitt has an interest or where I feared it could be alleged that there could be a perceived conflict of interest, I have declared an interest in the matter and have not taken part in Cabinet decisions on those matters. One case in point is on discussions that took place in Cabinet some years ago, when the original Tandanya project was being pursued by a Northern Territory based company. At that time, Mr Stitt was engaged by that Northern Territory based company as a consultant to provide advice on certain matters, and around that time a proposal also came to Government. Before I go on to that, I should say that the Tandanya development was a development on Kangaroo Island on a piece of land privately owned by a Northern Territory based company, and the development proposed was a private development.

At about that time a proposal came forward to Government from the Department of Environment and Planning for a small scale tourist development to be undertaken inside the Flinders Chase National Park, which was just a few kilometres from the proposed Tandanya development. When the matter came to Cabinet for decision as to whether the Government would proceed with the proposal for a development inside the national park, I declared to Cabinet the interest that Mr Stitt had in the development of the Tandanya proposal and did not participate in the Cabinet discussion on that matter. Some time later, after very considerable community involvement and consultation on the matter of the proposed development in the national park, when Cabinet came to consider whether or not it should continue to proceed with that development, on the same basis I decided that there may be perceptions that it would be improper for me to participate in the Cabinet discussion and decision, and therefore I did not participate in that matter.

The Hon. K.T. Griffin: Isn't that the same in relation to gaming machines?

The Hon. BARBARA WIESE: The Hon. Mr Griffin has asked whether I believe the situation in relation to gaming machines is similar, and I would have to say that I do not believe that the situation is similar because, as I understand it, the work that was being undertaken for the original proponents of the Tandanya development was of a form different from that which I understand Mr Stitt has been engaged to perform by the Hotel and Hospitality Industry Association. My judgment has been that there is no conflict of interest. My concern with the Tandanya development was that an agency for which I am responsible was being asked by Government to make judgments about the tourism merit of the proposal brought forward by a Government department and matters relating to tourism, and it seemed inappropriate, therefore, for me to participate in discussions on that issue.

In the case of gaming machines, the Bill that Cabinet commissioned to be drafted was not a Bill for which Cabinet asked me to be responsible. It was the decision of Cabinet that the Minister of Finance should have carriage of the legislation and that he would be responsible for drafting it and for carriage of the Bill through the Parliament. All members of my Party have been granted a conscience vote on that piece of legislation. Therefore, I do not believe that the decisions on the two respective issues are similar, and I believe that the decisions that I have taken with respect to declarations of interest are appropriate.

The Hon. M.J. ELLIOTT: As a supplementary question, does the Minister acknowledge that these sorts of allegations will continue to arise, that the potential is always there and that, therefore, it may be better if she held one of the other 12 ministries, other than tourism?

The Hon. BARBARA WIESE: It has been said to me—probably jokingly, but sometimes I wonder whether it is really a joke—that if I were Minister of Transport then Mr Stitt probably would not be allowed to drive on the roads. I have found that since Mr Stitt moved to South Australia there has been what I consider to be an unhealthy interest in his business affairs and his relationship with me. It has made it extraordinarily difficult for Mr Stitt to work in South Australia. For that reason most of his business activities are based outside South Australia. He has found that, whether real or imagined, some people whom he comes across feel that he may be able to assist them because of his relationship with me. He will never knowingly be involved in that and, as I have indicated, he has avoided work opportunities wherever he has had any suspicion that an individual or a company was employing him because they thought he might be able to gain access for them that some other consultant would not.

There is another group of people who have been unprepared to employ Mr Stitt because of his involvement with me, because they fear that in any relations they may have with the Government—whether with departments for which I am responsible or any other department of Government—their case will be prejudiced by his involvement. Therefore, it has made his task of running a business in South Australia extremely difficult. I think that, on balance, he would say that since he came to South Australia, far from providing any economic advantage to him, his association with me has had a positive financial disadvantage. As I indicated, because of the difficulties involved—whether real or imagined—in the minds of people within political Parties and within the community, he has opted on most occasions not to do business within the State but, rather, to concentrate most of his business activities outside the State so that there can be no allegations of impropriety.

The Hon. L.H. DAVIS: Will the Minister of Consumer Affairs indicate whether Mr Stitt or any company associated with him stands to gain financially from the successful introduction of poker machines into South Australia?

The Hon. BARBARA WIESE: I am not aware of any financial gain that will be made by Mr Stitt or any companies with which he is associated if poker machines are introduced into South Australia. I should say, just to ensure that all the facts of which I am aware are on the table, that I know that the work that Mr Stitt is undertaking for the Australian Hotel and Hospitality Industry Association is work for which he is being paid. I understand he is paid monthly for the consultancy work he is doing. I do not know how much he is being paid, but it has been suggested to me by a journalist that it is $4 000 per month. That is not something about which I have thought to inquire.

The Hon. R.I. Lucas: Have you asked whether he will gain financially?

The PRESIDENT: Order! The Hon. Mr Lucas will come to order.

The Hon. BARBARA WIESE: I have not asked that question directly. I would expect that I would be advised if there were any possibility of that, because I know that Mr Stitt is very sensitive about allegations that may be made about it. However, I do not think the question here is one of whether Jim Stitt gains financially from the work that he does in South Australia, but whether somehow I might gain as a Minister if the reason for pursuing these questions is to try to establish some conflict of interest. I do not know of any gain that he will make. I certainly do not expect any gain to be made by me.

The Hon. R.I. Lucas: But you don't know.

The Hon. BARBARA WIESE: I have indicated on numerous occasions during the course of this Question Time that I do not have a detailed knowledge of Mr Stitt's business.

The Hon. R.I. Lucas: So you might get something out of it.

The Hon. BARBARA WIESE: I do not expect to receive any financial gain whatsoever from the introduction of gaming machines into South Australia.

The Hon. R.I. Lucas: But you don't know.

The Hon. BARBARA WIESE: I do know. I will not receive any financial gain from the introduction of gaming machines into South Australia. I have indicated that I do not have a detailed knowledge of Mr Stitt's business affairs, but I would expect that I would be informed if there were expected to be some financial gain beyond the monthly consultancy payments that are paid to him by one industry body that is a partnership in an industry push for the introduction of gaming machines into South Australia.

I also wish to say, in case it has not been made perfectly clear to members of the Council, that I have been in no way whatsoever influenced by any views that Mr Stitt may or may not have concerning gaming machines or the introduction of gaming machines into this State. I have determined my position on the legislation that will be introduced in another place later today by informing myself of the views of the relevant industry associations, by reading reports about the introduction of such machines in other places in Australia, by reading the submissions that have been made to the Government by the Lotteries Commission of South Australia and by comparing the proposals that have been put forward by various interested organisations as to the arrangements that should apply if gaming machines are introduced into this State.

I have made no secret of my position. I have never, as far as I can recall, gone out of my way to make statements about the matter. However, if I have been asked—as I have in this Parliament—what my attitude is then I have been very happy to say exactly what I think should be the method of introduction and control of gaming machines in South Australia. I believe that the Bill to be introduced by the Minister of Finance in another place contains the sort of security safeguards that any Parliament would demand.

The Hon. L.H. DAVIS: Supplementary to that, is the Minister saying that she does not know whether Mr Stitt will gain financially from the successful introduction of poker machines into South Australia? For example, such benefit might well take the form of a success fee, a lump sum payment.

The Hon. BARBARA WIESE: I do not know of any such proposal and am not aware that such a proposal has been made. If the honourable member has information about that, perhaps he should provide it. Certainly, I am not aware of any such proposal. As far as I know, the financial benefit that Mr Stitt is receiving with respect to this matter is related to the monthly consultancy fees that he is paid.

Just for the record, I want to say that when questions were last asked some three years ago by members opposite about Mr Stitt's business affairs I provided as full information as my knowledge allowed of the matters involved, and I am aware that, following those episodes, Mr Stitt approached members opposite and indicated that, if at any time they wished to receive a briefing on his business affairs, he was very happy to provide such information. To my knowledge, no-one in this Parliament has ever taken up the offer he made at that time for a briefing on his business affairs.

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Minister of Consumer Affairs a question about poker machines.

Leave granted.

The Hon. I. GILFILLAN: It is significant to note the climate in this Chamber as we pursue the questioning on this matter. It is to the Minister's credit that this line of questioning reflects no joy in members, and a respect for her and her integrity. I make that endorsement myself. However, the matters have been raised and I have been shown evidence, which has already been indicated in this Chamber, that a substantial amount of money has been paid to Mr Stitt as a commission for services from the AHA. In fact, there appears to be a copy of an invoice from Nadine Pty Ltd to International Business Development, 78 Payneham Road, Stepney, for professional services, for the sum of $5 000, and the bottom of that bears Jim Stitt's name.

I have seen material that gives me grounds to feel that this must be pursued. Money has flowed from IBD PR to Ausea Network, as it was, Ausea Management, and then through to Nadine which, as the Minister has indicated, is a company in which she is one of two shareholders. One does not need to establish that a certain specific amount of money moved to an account identifiable each way. The analogy that I think is worth considering is, if water falls into a tank and flows through to a tap further down the system, it is very difficult to determine which amount of water came from which shower and from which source, so it is very difficult for the Minister or anyone to establish that.

With that connection in place, the suspicion and the inference will continue to be made that there is a financial benefit flowing from Mr Stitt's activities through to the Minister. I do not doubt the honesty of her answers. I have never found the Minister to be dishonest. Sometimes she has been ignorant, but never, to my mind, dishonest. My questions are: bearing in mind that, like it nor not, these allegations and some supportive material are virtually in the public arena and circulating, would the Minister care to describe how she sees that the relationship between herself and Mr Jim Stitt should be referred to? Is it *de facto*? Is it a relationship? Is it a business relationship? Does the Minister have some way in which she would prefer to describe it? Bearing in mind—

Members interjecting:

The Hon. I. GILFILLAN: I hear muttering from the other side. The fact is that we are all, as members of this place, obliged to have responsibility for the dealings of spouses, putative spouses or *de facto* spouses. That is part of our obligation. That is a fact, not an allegation. In light of that, does the Minister not believe that it would be an effective and constructive course for her to invite an independent

inquiry into these matters so that the truth of what she says and what Mr Stitt may be able to provide is made clear and that, as a result of that, she has either been able to convince the Parliament and the public that there is absolutely no ground for any allegations and she continues, or that there may be grounds for consideration of a different ministerial appointment.

The Hon. C.J. Sumner: What are you saying the allegations are?

The Hon. I. GILFILLAN: There are no allegations that have been made publicly, but what has been identified has been a potential compromising of the position of the Minister. It is not proved, but the public know of it through the ABC program this morning. I am asking the Minister—and I believe this is a totally unbiased question—whether she believes that it would be better for her role and her continued integrity as a Minister to have an independent inquiry into these matters so that they can be established clearly, both to her satisfaction and to that of the public and the Parliament?

The Hon. BARBARA WIESE: Before I address that final question, I want to correct some inaccurate information that the honourable member has provided. He has repeated allegations that were made by Mr Nicolls to me in an interview last night, that money has been transferred from IBD Public Relations Pty Ltd to Ausea Network Management Pty Limited and then on to Nadine Pty Ltd. I have no knowledge of any such transaction. I am aware of one amount of money that was transferred from International Business Development to Ausea Network Management. That is a Western Australian company transferring money to another Western Australian company. International Business Development is not the company in which Mr Stitt is involved—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: —which has any connection with the Hotel and Hospitality Industry Association. The other matter to which the honourable member referred is a copy of an invoice that I can only assume is similar to a piece of paper which was handed to me last night by Mr Nicolls and on which my comment was sought. He asked me whether I had ever seen this piece of paper and I indicated that I had not. There is no indication on this piece of paper, other than what is typed there, whether it is in fact an invoice which is a legitimate one, or whether someone has just typed it up on their Remington at home.

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: The invoice that was provided to me is also not dated, but the journalist indicated to me last night that he believed this was a transaction that had taken place in 1989. Well, if that is so—and I do not know how he works that out, since there is no date there—then he is referring to an alleged transaction that occurred a good 12 months before Mr Stitt had any involvement whatsoever with the Hotel and Hospitality Industry Association. Therefore, even if it is a legitimate document, I fail to see that it has any bearing.

But the real point here is that there are no allegations of which I am aware. There has been an imputation of impropriety. There have been a number of alleged transactions and alleged facts which appear not to be connected in any way and which are designed to somehow suggest that I have behaved in an improper way. I reject that imputation absolutely. Therefore I can see absolutely no reason whatsoever why I or the Government should bow to—

The Hon. R.I. Lucas: I bet you don't.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Lucas will come to order! The honourable Minister has the floor.

The Hon. BARBARA WIESE: I can see absolutely no reason for the Government or me to bow to scurrilous, unsubstantiated imputations—they are not even allegations. Therefore, in those circumstances it would be quite improper for the Government to undertake an inquiry.

As to the honourable member's questions about how I would describe my relationship, I would probably say that, like many people who reside in a living arrangement like mine—and I imagine the Hon. Mr Gilfillan shares the confusion—it is difficult to find a term that adequately describes a personal relationship with someone to whom one is not married but with whom one resides. I certainly would not describe my relationship as a business relationship.

The one and only company of which I am a director and in which Mr Stitt is a director is a company which owns the two housing properties to which I referred earlier as well as a small number of shares in a public company and, therefore, it is not a trading company, and therefore I would not describe that as a business relationship. Mr Stitt is not my de facto husband at law, as I understand it, because we have not resided together for five years. I guess he is my partner in life.

The PRESIDENT: Order! Time having expired for questions, I call on the business of the day.

[*Sitting suspended from 3.34 to 3.50 p.m.*]

SOUTH EASTERN WATER CONSERVATION AND DRAINAGE BILL

In Committee.

Clauses 1 to 8 passed.

Clause 9—'Membership of the board.'

The Hon. J.C. IRWIN: I move:

Page 4—

Lines 26 and 27—leave out paragraph *(b)*.

Line 29—leave out 'three' and insert 'four'.

Line 30—leave out 'one', and insert 'two, each'.

After line 36—insert new subclause as follows:

(2) Of the two members elected to office by the voters for the Northern Electoral Zone, one must be an eligible landholder in the area of the District Council of Tatiara and the other must be an eligible landholder in the area of the District Council of Coonalpyn.

This Bill has already passed through the Assembly and we are bringing forward a number of amendments similar to those which have been discussed previously. The amendment is to leave out one member nominated by the Local Government Association and to insert one other member and to a certain extent rearrange the membership of the board.

As has been mentioned by others of my colleagues, we do not have any problem with the Local Government Association and we do not wish to reflect on its ability. However, I assume that the member nominated by the Local Government Association would probably come from South-East Local Government Association membership. I do not know the number of councils on SELGA, but I can recall at least five which would be concerned with underground and surface water in the South-East. As the Bill stands, one person would be nominated by the LGA to go on the South-Eastern Water Conservation and Drainage Board. I do not see local government having any part to play, unless the intention

somewhere down the track is for local government to be asked to fund or be a major contributor towards funding the board and the works that it must undertake under the arrangements in this legislation. I do not see on a day-to-day basis the necessary contribution that can be made by the LGA not being able to be made by people scattered around the South-East who, in our proposition, would be on the board. We are talking about four members being elected to the board: two from the northern zone, one from the central zone and one from the southern zone.

Simply put, the members from the central and southern zones would represent that area, which has always been under the South-Eastern Drainage Board and the legislation that was associated with it. Although it does not include the Millicent drainage area, that area comes under this legislation. Of course, that is a separate issue, but that part of the South-East has been looked after by the South-Eastern Drainage Board since its inception and most of the drainage work would already have been done. That does not mean that there is not a lot of work still to be done in future on the drainage of water from that part of the South-East.

As I mentioned in my second reading speech, I was happy to see that over a number of years sluice gates have been put into the drains to control some of the water that is going out, thereby avoiding cutting deeper into the water table and taking off the surface water as well. The sluice gates enable the board to prevent the water flowing out at inappropriate times. Much of that work has already been done and can continue to be done by a board. However, I am particularly interested in the northern zone, because that is now being included for the first time in the South-Eastern Water Conservation and Drainage Board area.

We know that the Tatiara Drainage Trust is going out of existence. I referred to that in my second reading speech. I appreciate the work that the Tatiara Drainage Trust has done over a number of years, but it does have its surface and underground water problems. Therefore, people from that area deserve to have a special place, at least in the initial stages, on the South-Eastern Water Conservation and Drainage Board and its work. I can envisage in future that there may not be a requirement for a particular person to represent that part of the northern zone.

I guess that I could make similar comments about the south of the Tintinara area and what I would call the north-western part of the upper South-East, which is the recipient of an enormous amount of south-eastern or western Victoria water, or both. As we know, drain E disgorges an enormous amount of water into the Marcollat water course. In my opinion, what happens to that water has been neglected by the board in years gone by. I do not want to cast aspersions on any members of the board, but the principle seems to be, 'Let's get rid of our water out to sea or into some other part of the South-East and forget about it.'

There are problems in that area, which takes in the water valley wetlands and other watercourses. Decisions must be made as to how the end of the water valley system will be managed. As I said in my second reading speech, a lot of people are asking what will happen to that body of water, which is artificially blocked from going further north, if there is a wet winter. The new board will have to make decisions about turning the water left towards Salt Creek and out to the Coorong. They are serious and far-reaching decisions. There is a lot of expertise among the people who have been resident in the north-western area of the northern zone.

I have already alluded to the fact that the water that is banked back artificially at Jip Jip must be addressed somewhere along the line. Speaking as a layman, I am aware that there are detrimental effects of the artificial holding back of water. The dam wall that holds back that water was raised on the approval of the board in the not-too-distant past. The acres and acres of water that are being held back have an effect not only on the flow of water but on the surrounding lowlands, which used to be very rich strawberry clover flats. I have seen a lot of evidence that those flats are all salted up and useless. That comes roughly into the northern zone and the Opposition's amendment seeks to leave out the local government representative on the board. We propose that four members be elected to the board, two of whom come from the northern zone, one from the central zone and one from the southern zone.

The Hon. ANNE LEVY: The Government opposes this series of amendments which all relate to the composition of the board. First, with regard to the representation from local government, we hold that it is appropriate to involve local government in important management issues relating to regional areas. Drainage and flood management is a direct concern of local government, as anyone who talks to local government representatives from the metropolitan area will realise. It applies just as much to local government in rural areas, particularly those areas prone to flooding. All submissions relating to this Bill that the Government received support local government representation on the board, as does the Government, and a number of key organisations including the UF&S and the South-Eastern Local Government Association strongly support the proposition that there be LGA representation.

The other effect of the group of amendments that the Hon. Mr Irwin has moved is for two delegates on the board to be elected from the northern zone, with only one delegate from each of the central and southern zones. The three zones are approximately the same in land area. Furthermore, the number of electors who will elect a representative to the board is about the same for all three areas. If anything, it is the northern area that has the least number of electors. In the northern zone, there are about 1 600 electors, in the central zone there are about 2 200 electors, and in the southern zone there are 2 960 electors. By giving equal representation to the three zones, electors in the southern zone could argue that they are being treated unfairly because they are the largest body of electors, yet they will elect only one representative to the board. As the land areas are about equal and as the number of electors is fairly equal (if anything, the northern zone has the least number of electors), the Government feels it would be unfair to have other than one representative from each area.

A large public meeting about this matter was held in Bordertown, which is situated in the northern zone. That public meeting unanimously supported equal representation for the three zones which are proposed for the board, so there is local support for what the Government has put forward. In addition, I remind members that the Minister has agreed to review the legislation in 12 months time if in the light of experience it is felt that two landholders are necessary in the northern zone. Initially, it is felt that the fairest proposal is to give the three zones equal representation on the board and to have a nominee of the Local Government Association who is associated with local government in the South-East of the State.

I also remind the honourable member that the Minister has proposed the establishment of an advisory committee at Tatiara so that there can be local input into the decision-making process. It is felt that the board's composition and procedures should be given a chance with a review occurring in 12 months time if it is found to be inadequate despite seeming to be the fairest means of proceeding.

The Hon. M.J. ELLIOTT: The Democrats do not support the amendment. We gave it some consideration but, quite frankly, there has not been a deluge of requests from the South-East for such a change. As currently proposed, the structure of the board should do the job adequately.

The Hon. J.C. IRWIN: I will not delay the Committee very much longer, except to reply to some of the points raised by the Minister, because the Democrats have certainly indicated their intentions. I have the same dilemma as we often have in this sort of debate about the makeup of the board. We do not have a UF&S member, a Country Women's Association member or a school teacher, all of whom, it could be argued, should be on the board. I know that this argument could go on forever but in this instance I do not want to get hung up about numbers, one vote, one value and equal numbers here and there. With respect to the Millicent drainage area, will the landholders there be eligible to vote for a board member for that zone? In my opinion they should not, because they are already in their own zone, but I presume they are. However, I am not hung up about the numbers because, as I said previously, I believe it is important to have the right people, and I do not care where they come from.

I do not care if there are four from the lower South-East and one from the upper South-East, and I am happy to argue the other way, that there should be two from the upper South-East, for the reasons I gave with respect to the northern zone. They are brand new into the system; there is Tatiara on one side, which has already been legislated for, and there is the new area to the south of Tintinara north of the Jip Jip area, which is the recipient of an enormous amount of water that is coming up from the lower South-East, some of it emanating from Victoria. In the end, I am sure that we are looking at who are the best people to be on the board. If we get hung up about where they come from or whether they have equal representation and one vote, one value, we may not get that. So, I make that point.

I was at the public meeting in Bordertown with the Minister and the Leader of the Opposition, there in his capacity as member for Victoria. The meeting was held at the council chambers and I do not think it was a large public meeting, but it was certainly very well attended. There may well have been another meeting. I think the Minister said (and I am glad) that there will be another look at the board in two years time.

The Hon. Anne Levy: The Minister has promised to review it in 12 months.

The Hon. J.C. IRWIN: I am glad to hear that because that might be the time to do some of the fine-tuning. The advisory committee, as I have acknowledged, will be there, and that is a good thing. It will not have power other than to advise the board, but, if the board will be under ministerial direction and it is exercised to the nth degree, there is no point in having an advisory committee. If it makes a good representation to the board and the board is overridden by the Minister, I cannot see any point in having an advisory committee. Those points have been made and I will make them again when we come to the amendments. I am sorry that the Democrats will not support this, but I am pleased to acknowledge that the Minister will look at this in a year's time and that may or may not be the time to do some fine-tuning to the board.

Amendments negatived; clause passed.

Clauses 10 to 12 passed.

Clause 13—'Term of office of board members.'

The Hon. J.C. IRWIN: I move:

Page 7, lines 1 to 6—Leave out subclauses (4) and (5).

This amendment relates to the term of office of board members. Subclause (4) provides that, on the office of a member becoming vacant otherwise than on the expiration of a term of office, the Governor may appoint a suitable person, and subclause (5) is similar. We move this amendment because we believe that those people who are leaving the board for one reason or another should be elected back to their position and not appointed.

The Hon. ANNE LEVY: The Government opposes this amendment. We feel it is important if there is a casual vacancy that there be the capacity to respond to it quickly and that someone can be chosen to fill a casual vacancy. I should point out that it will be filled only until the next election occurs. I can assure members that the Minister has given a commitment that there would be consultation with landholders before making any interim appointment in this way until the next election. Furthermore, it is exactly the same provision as has operated very satisfactorily for many years under the existing Act. No change is being proposed, and this type of provision occurs in a great deal of legislation, enabling casual vacancies to be dealt with rapidly until the next general election occurs.

The Hon. M.J. ELLIOTT: I think that the amendment that is being moved is reasonable, unless a fairly short part of the term of office is left. If a person died or resigned for whatever reason very early in the four years, I think it would be reasonable that an election be held to fill the vacancy. If, on the other hand, it happened in the last 12 months of a person's term, it might be acceptable to appoint a ministerial nominee. But they are not the options presented at present. So, I think, on balance, and particularly with such a long term of four years, I am of a mind to support the amendment moved by the Hon. Mr Irwin, perhaps noting that it could be further amended to stipulate 'unless the vacancy occurs in the last 12 months of a member's term'.

The Hon. ANNE LEVY: I point out to the honourable member that subclause (4) does provide that the Governor 'may appoint'. It is not mandatory and it is certainly understood that if a casual vacancy occurred only a few months into the four-year term or after 12 months, a supplementary election would be called. That discretion in subclause (4) would be made use of only where the time up to the next election was such that it would seem ridiculous to have a supplementary election. However, it could be most unfortunate to have a vacancy on the board that could not be filled.

The Hon. M.J. ELLIOTT: I want to respond to that. Consistently in this place I have tended wherever possible to ensure that, when boards, committees, and so on are being set up, the members of those are elected by some responsible body—or, as in this case, groups of electors—rather than being appointments. I do not think there is a great deal of contention here, but it is on that basis that I prefer to see entrenched within the legislation a requirement that, in general terms, such an election will take place. It is on that basis that I am supporting it. I understand what the Minister is saying, but it is not there in black and white, and that is the way I prefer things.

The Hon. ANNE LEVY: I should point out that quite a number of members of the board are appointed by the Minister, anyway. I presume that the honourable member's concerns are in relation to those who are elected by the landholders.

The Hon. M.J. Elliott interjecting:

The Hon. ANNE LEVY: Well, the local government representative is nominated by the Local Government Association. It is left to that association whether it conducts an

election or pulls a name out of a hat. That would be its responsibility.

The Hon. M.J. Elliott interjecting:

The Hon. ANNE LEVY: It is not necessarily so. I cannot imagine any Minister not contacting the Local Government Association and asking for its nominee for some particular position should the position filled by a nominee of the LGA become vacant. It is the normal procedure, either at the expiration of the term of office or at the time of the casual vacancy that one contacts the nominating body and asks for a name. Every Minister would have done that many times and there would never be any suggestion of doing otherwise.

The Hon. J.C. IRWIN: I agree with the Hon. Mr Elliott's comments. There is a number of Acts that we can look at where there are provisions for reelections. I will not go through them all. I would imagine that under the new proposals of the Local Government Act if the term of office were three years there would certainly be a supplementary election procedure if someone were to leave office other than in the last six months. That used to be in the Act, but I am not sure what it contains now. I think it needs tidying up. I agree with the Hon. Mr Elliott; it ought to be clearly spelt out.

The Act refers to those who are elected having a re-election procedure and those who are nominated having their own nomination procedure. I would assume that SELGA would have in its constitution some re-election process. So, if one of its members resigns and needs to be replaced, I do not think we would assume to go into its electoral procedure. We accept that it will nominate democratically one of its members to serve for the rest of the term. I agree; I think it needs to be tidied up and I think we should stick to our amendment at this stage.

Amendment carried; clause as amended passed.

Clauses 14 to 17 passed.

Clause 18—'Management plan.'

The Hon. J.C. IRWIN: I move:

Page 9, lines 21 to 23—Leave out subclause (6).

This amendment relates to the management plan. Of course, under this provision the board must, within a year of commencement of the Act, develop a management plan and so on, and detail the action that is to be taken by the board and the council in the administration of this Act over the ensuing three years. I will not go into that in great depth, but I assume that the board, when it develops its management plan, will have access not only to the expertise of the board members but, even more importantly, to the technical aspects of the behaviour of water above and below ground, to the conservation needs of wet lands and the whole management plan for the area.

The Opposition's objection is that the Minister can direct the board and the board must comply at the end of the day with his or her direction. We object to the fact that the Minister can direct the board after the board has been through that process. If it is an incompetent board then there must be some way of overcoming that. However, in ordinary day-to-day administration and as far as the management plan is concerned, we believe that the Minister should not be able to override the board and that the Minister and the Government must have confidence in the board, the series of advisory committees and the experts it calls in.

The Hon. ANNE LEVY: The Government opposes this amendment. In effect, it would remove the power of the Minister to direct the board in relation to its management plan. The board is financed by the Government. Any work the board proposes, including its management plan, is likely to have financial implications for the Government. It is fiscal responsibility for those who provide the money to have some say in how it is spent. It would be irresponsible for the Minister not to be able to direct the board where Government money is involved. The ultimate responsibility for taxpayers' money lies, of course, with this Parliament through the Minister being answerable to the Parliament. To have a situation where people other than the Minister have final say in expenditure of taxpayers' funds is not acceptable and it is not part of the Westminster tradition.

There are similar provisos regarding ministerial responsibility in other management plans in other pieces of legislation. For example, in the National Parks and Wildlife legislation the management plans are subject to ministerial direction. However, this is a question of ministerial responsibility. Any management plan can have implications on general water resource management issues. Of course, the Government must be able to look at the whole question of water management throughout the State, not just in the South-East, and it needs to take a broader view. This is not in any way a criticism of what the board will come up with, but it does not have any responsibility—and nor should it—outside its particular area. However, ultimately, taxpayers' money is involved. It is entrusted to the Government and the Minister; they are accountable to the Parliament for it, and they should have ultimate power and responsibility regarding the use of that money.

The Hon. M.J. ELLIOTT: There are two matters that I need to balance in considering this amendment. First, I believe that as far as is practicable one wants to see local control over what are essentially local matters. Secondly, I recognise that sometimes what happens within a particular area has an impact elsewhere. As an illustration, this board might make certain decisions that it feels are in the best interests of the South-East water area. In terms of drainage, for instance, it might decide to send its fresh water to the bottom end of the Coorong, as is currently being considered.

It is not really in its interests one way or the other to ask what are the consequences of such an action. There may be times when it makes a decision that is reasonable within its own context but unreasonable outside. Of course, it is also true that there is a question of where the money comes from although, perhaps, the board would argue that that is why people pay taxes. Because of the capacity for impact beyond that area, there is the necessity for a final say to come from the State level, but that is something I hope would be used with caution.

As the Bill stands, it provides that the Minister may give approval, and may direct the board to make alterations. I rather feel that we will need to start confronting these things by taking accountability one step further and by doing these sorts of things by regulation so that Parliament itself has more say. However, that is not before us at present, and I am quite sure that a move by me to do so at this stage would fail. I have full sympathy for what the Hon. Mr Irwin is trying to achieve, that is, local control as far as is practicable, but I feel that ultimately there needs to be State consideration, and at this stage the Minister is the person who will do so. For that reason, I oppose the amendment, but I flag that perhaps in legislation of this sort that comes before us in the future I will be looking increasingly for a role for Parliament and perhaps for some of the standing committees to play in these sorts of processes.

The Hon. J.C. IRWIN: In reference to the Minister's contribution, I accept that fiscal responsibility should be attached to those who provide the money, and that is okay. But what about those who also provide some other money?

Local government might and landholders might eventually provide the money. Where is their fiscal responsibility?

The Hon. Anne Levy: Is that a promise?

The Hon. J.C. IRWIN: No. I had better be careful: I talked to a former Premier about this yesterday. There will be a conflict, although it is not there now, with other people who want the fiscal responsibility provided. I am assuming that, in the long run, whatever happens no Minister, unless it has come to the umpteenth time that a proposal has been backwards and forwards between the board and the Minister, would say, 'You have to do what I say.'

With commonsense, I hope that will be a safeguard, if it is not built in anywhere. If the Democrats do not support this, I hope that that is a safeguard so that the Minister will not be able to go to a board and say in a heavy-handed way that it is not coming to the right management plan.

The Hon. ANNE LEVY: I am assured that the Minister would exercise this power only in the most extreme circumstances, and it is not expected to be used in any way frivolously.

Amendment negatived; clause passed.

Clauses 19 to 25 passed.

Clause 26—'Councils subject to control of Minister.'

The Hon. J.C. IRWIN: I move:

Page 10, line 43—Leave out 'Minister' and insert 'board'.

This comes under division III, Functions and Duties of the Council, and the council referred to is the Millicent District Council. The same comments about directing can be made, because this council has a certain function in this area, as I mentioned earlier. Clause 26 provides:

> The council is subject to the control and direction of the Minister in the exercise of its powers and functions under this Act.

I make the same comment about the directions of the board, so I will not go over the same ground again.

The Hon. ANNE LEVY: The Government opposes this amendment, although we agree that the issue is debatable. The intention was to have the board coordinate policy and management plan development for the whole area but, of course, leaving Millicent council a degree of independence in performing its functions under the Act, functions it has had for a long time. In consequence it was felt that the council, like the board, would be subject to direction by the Minister.

We do not support making the council subservient to the board, as proposed by the Opposition. It is a fact that the Millicent council guards its independence very jealously, and it strongly reaffirmed as recently as 14 February this year that it did not wish to be subservient to the board although it was happy to be under the ultimate direction of the Minister, as proposed in the legislation. It does have an important role to play and would feel that it had lost much of its local independence if the Opposition's proposal were adhered to.

Amendment negatived; clause passed.

Clauses 27 and 28 passed.

Clause 29—'Eight Mile Creek Water Conservation and Drainage Advisory Committee.'

The Hon. J.C. IRWIN: I move:

Page 11—

Line 26—Leave out 'The' and insert 'Subject to this section, the'.

Line 30—After 'area' insert 'elected to office by the eligible landholders in that area'.

Lines 36 to 38—Leave out subclause (5).

These amendments relate to the Eight Mile Creek Water Conservation and Drainage Advisory Committee, under division IV, advisory committees generally, because we may well come to some others. The amendments presently before the Committee will be treated as a test case. We strongly recognise the need for landholders to have the opportunity to elect rather than for people to be appointed to the positions on the advisory committees, and I urge the Committee to accept that proposition. Again, it is a matter of electing members to the advisory committee, rather than a question of selecting them.

The Hon. M.J. ELLIOTT: I support the amendments.

The Hon. ANNE LEVY: The Government does not support these amendments. These are advisory committees, not decision-making committees, and the election of members therefore seems inappropriate. There is lots of other legislation, for example, the Water Resources Act, which was exhaustively debated in this Council. They do not provide for election of members of advisory committees; they are appointed. There are plenty of checks and balances in the Bill as it stands; that is, before appointing any advisory committee, the Minister must consult with all the landholders, and this ensures that their views are taken into account in appointing the advisory committee. Furthermore, elections which would need to be conducted by the Electoral Commissioner are both time consuming and costly, and it is felt not appropriate for a committee which is an advisory committee.

Finally, I must state that 37 submissions regarding this legislation were received from people in the area, and not one of them advocated elections by the Electoral Commissioner for the advisory committee. This proposition has not been put forward by anybody who had an interest in this legislation.

The Hon. M.J. ELLIOTT: I do not see anything in the amendment that demands that this will necessarily be an Electoral Commission-operated election. It simply says, 'elected members'. I cannot see any reason why it cannot be done by way of meetings held periodically and which local landholders could be encouraged to attend. That is not a hard thing to do when you have such a small area as Eight Mile Creek; such an election could be carried out there.

The Hon. ANNE LEVY: I point out that, on the second page of the Opposition's amendments proposed by the Hon. Mr Irwin, he insists that elections for the advisory committee be conducted by the Electoral Commissioner in accordance with rules prepared by the Electoral Commissioner.

The Hon. M.J. Elliott: But that is not what we are voting on at the moment.

The Hon. ANNE LEVY: No, but it is part and parcel of elections. A meeting in a hall would hardly suffice if 2 960 people are eligible to vote.

The Hon. M.J. Elliott: Not in Eight Mile Creek.

The Hon. ANNE LEVY: Well, agreed.

The Hon. M.J. Elliott: It would be more like 150.

The Hon. ANNE LEVY: Well, even if 150 people are not able to turn up to a particular meeting called on a particular night it could be difficult.

The Hon. J.C. IRWIN: I point out the difference between the way in which the Eight Mile Creek Water Conservation and Drainage Advisory Committee and the Upper South-East Water Conservation Drainage Advisory Committee are elected. However, the Eight Mile Creek Committee will be appointed by the Minister and will consist of such number of members with such qualifications as the Minister thinks appropriate.

One member must be a person nominated by the board; at least three must be eligible landholders within the Eight Mile Creek area; and one or more must be employees in such administrative units or instrumentalities of the Crown

as the Minister thinks relevant to the administration of this legislation in the Eight Mile Creek area. If we look at the Upper South-East Water Conservation Advisory Committee, we see that one person must be nominated by the board; one must be a person nominated by the Tatiara District Council; one must be a person nominated by the Coonalpyn Downs District Council; and at least three must be eligible landholders in the Upper South-East. I believe that there is a difference in the make-up of those advisory committees, and I do not see any reason why they cannot be elected by the areas that they serve.

The Hon. ANNE LEVY: There would be absolutely nothing to prevent 150 people having an election and advising the Minister accordingly. As the Minister is bound by the Act to consult with the landholders, if they have their meeting and are strongly of the opinion that a particular person should be nominated, that will be the automatic answer that the Minister receives on undertaking consultation, and it is obviously the person who will be appointed.

Amendments carried; clause as amended passed.

Clause 30—'Upper South-East Water Conservation and Drainage Advisory Committee.'

The Hon. J.C. IRWIN: I move:

Page 12—
Line 8—Leave out 'The' and insert 'Subject to this section, the'.
Line 14—After 'Upper South-East' insert 'elected to office by the eligible landholders in that area'.

I understand that these amendments follow on from what we have just done in relation to clause 29. Lines 8 and 14 are consequential. We have already covered this territory. This relates to the Upper South-East Water Conservation Drainage Advisory Committee.

Amendments carried; clause as amended passed.

Clause 31 passed.

New clause 31a—'Committee elections.'

The Hon. J.C. IRWIN: I move:

Page 12, after clause 31 insert new clause as follows:
31a. An election for the purposes of filling a vacancy on an advisory committee established by or under this Part will be conducted by the Electoral Commissioner in accordance with rules prepared by the Commissioner.

This relates to committee elections, and that is where the Minister has correctly picked up that we are proposing an election for the purpose of filling a vacancy on an advisory committee established by or under this Part to be conducted by the Electoral Commissioner in accordance with rules prepared by the Commissioner.

The Hon. ANNE LEVY: The Government certainly opposes this new clause. Involving the Electoral Commissioner when, instead, a meeting of 150 people can occur in a hall on one evening, seems gross overkill involving a great deal of time and expense for what, after all, is filling a casual vacancy. It seems totally unnecessary.

The Hon. J.C. IRWIN: I believe that the Tatiara Drainage Trust, which goes out of action after this Bill passes, had a provision for these electoral procedures. I do not think the Minister is making fun of small rural communities that might have only 100 or 200 people in them. I do not mean that at all, but there were not very many people in metropolitan terms who were directly interested in the Tatiara Drainage Trust, and they had periodic elections which, if I recall rightly, were usually timed to council elections. That may not always be possible.

The Hon. Anne Levy: This is an advisory council. Tatiara was not.

The Hon. J.C. IRWIN: That is right. I still say that, but it brings me to the point I wanted to make and did not make before when discussing this earlier: I am extremely worried about the Minister or, for that matter, the board picking whom they want to go onto their board. I should have thought that the democratic process would be for the people who would be affected by the decisions to have some input. The Minister's suggestions to have a meeting in the hall and decide may be okay. If that does not happen, I am very suspicious of boards and Ministers who choose people to sit on them, because they know what way they will go philosophically or in technical terms in the decision-making process of the board.

I believe that, even though it is an advisory committee, where landholders are involved they should have the ability to elect the person they want to represent them on an advisory committee which we understand is of some importance, because the board is likely to take its direction from an advisory committee.

The Hon. ANNE LEVY: We have passed an amendment providing that members of advisory committees should be elected by the landholders. It does not say that it has to be carried out by the Electoral Commissioner. It has to be an election which may or may not be carried out by the Electoral Commissioner. The Opposition is proposing that an election should be carried out by the Electoral Commissioner for a casual vacancy. The honourable member has not insisted that it be carried out by the Electoral Commissioner for the actual elections. As the Hon. Mr Elliott suggested, 150 people at Eight Mile Creek can get together and conduct their own election one evening.

The Hon. Mr Irwin is suggesting that if one of the people elected to the advisory committee is unable to continue, those same people could not get together to pick the casual replacement, but that the Electoral Commissioner would have to be called in, with all the time and expense involved in an election carried out by the Electoral Commissioner for a casual vacancy. It is a great example of overkill. The committee has accepted the amendment that some members of the advisory committee are to be elected. It would seem to me to be obvious that casual vacancies would be filled by election likewise if they are of elected, not appointed, members, and the same procedures would apply. However, we do not need the overkill of the Electoral Commissioner.

The Hon. M.J. ELLIOTT: I think the Minister has misunderstood the amendment. I am not supporting the amendment, but, in defence of it, it is talking about elections to fill vacancies on other advisory committees. It is not talking about casual vacancies; it is talking about other advisory committees. I think that the Minister has misunderstood the amendment, but, having said that, I point out that I am not supporting the amendment for another reason. I am not sure that, having required an election to be carried out, we need the Electoral Commissioner to run one in relation to the Eight Mile Creek Advisory Committee. That is a fairly small group and it could easily be organised by the board itself, and that may be true of other advisory committees. It is only on that basis that I oppose the amendment, not for the reasons put forward by the Minister, because it is not talking about casual vacancies.

New clause negatived.

Clause 32—'Terms and conditions of office.'

The Hon. J.C. IRWIN: I move:

Page 12—
Line 33, Leave out 'A' and insert 'An appointed'.
After line 35, insert new subclause as follows:
(1a) An elected member of an advisory committee will be elected to office for a term of four years.

Amendments carried; clause as amended passed.

Clauses 33 to 36 passed.

Clause 37—'Water in water management works is property of Crown.'

The Hon. J.C. IRWIN: I move:

Page 14, line 11—Leave out 'Minister' twice occurring and insert in each case 'Board'.

This amendment is similar to the one that we have already discussed about the Minister and the board and clause 13 which was passed, that is, the Minister directing the board.

The Hon. ANNE LEVY: The Government opposes this amendment for much the same reasons as the Committee did not amend the earlier clause. It is consistent with the provisions of the Water Resources Act. The Minister of Water Resources should be able to have overall control of the available water resources in the State. The Minister has responsibility for the whole State whereas the board does not. Of course, the Minister will be able to delegate powers, as may be appropriate from time to time, in terms of the person who would be making decisions. In the South-East it is felt that it is very important that the overall management of water resources should be integrated with the management of natural resources. While this is desirable throughout South Australia, it is particularly important in the South-East. Final decisions on the allocation of water must be viewed in the context of other natural resources in the South-East and water resource management throughout the State for which the Minister should have ultimate responsibility.

The Hon. M.J. ELLIOTT: Hypothetically, the amendment moved by the Hon. Mr Irwin would allow the board to grant water to an industry which wanted to set up next to Eight Mile Creek which puts out quite large quantities of water into the ocean, which water is at present lost. The board might think that it was doing a good thing by granting permission for water to be drawn by a particular industry, but there are matters which are beyond the board's direct consideration and which it probably would not take into account. I have some difficulty about letting the board alone have the power. I should like to see some overview of what the Minister does, but that is not being offered by the amendment. Therefore, I oppose the amendment.

Amendment negatived; clause passed.

Clause 38 passed.

Clause 39—'Power to require landholders to contribute to cost of works.'

The Hon. J.C. IRWIN: I move:

Page 14, lines 34 and 35—Leave out 'a number of landholders representing between them more than 75 per cent of the total area of land' and insert 'not less than 75 per cent of the total number of landholders whose land'.

This is the old argument about what value a vote has, relating it either to the percentage of the total of land or to the number of landholders. Although the Liberal Party did not succeed with this amendment in the other place, we argue strongly that the provision should be changed so that it relates to not less than 75 per cent of the total number of landholders whose land is affected by the requirement to contribute to the cost of works.

The Hon. ANNE LEVY: The Government opposes this amendment because, when works are proposed and landholders are asked to contribute towards the cost of those works, they will have to contribute in proportion to the area of land that is affected. In other words, one large landholder might contribute 75 per cent of the money and a dozen small landholders might contribute the remaining 25 per cent. It is felt that, where people have to contribute on the basis of area, the agreement likewise should be based on percentage of area. One would not want a group of very small landholders outvoting a large landholder and thereby imposing a large financial contribution on that landholder when they would have to provide very little in the way of resources.

Small landholders in the area need not feel that their interests are not protected by this provision. In fact, they are protected in two different ways. The board has a discretionary power to reject any proposal. The Bill provides that it may proceed, not that it must proceed, as a result of a favourable vote for any proposal, so it can act to protect small landholders if it is felt to be unfair. In any case, any landholder has a right of appeal to the Water Resources Appeal Tribunal against being included in the area of benefit. So, if small landholders feel that they are being treated unfairly, they do have an avenue of appeal, but landholders will be required to contribute financially on an area basis. It is felt that this criterion of area basis is fair and should be used in reaching agreements.

The Hon. M.J. ELLIOTT: Somewhere in the past 20 years there has been a role reversal between the Labor Party and the Liberal Party concerning land ownership and how many votes people should have. The Liberal Party is now saying that everyone's vote should be equal, regardless of how much land they own; yet I hear the Labor Party saying that if you own more land and put in more money, you should have more say.

The Hon. Anne Levy: Only in this particular case, which is about money.

The Hon. M.J. ELLIOTT: That is exactly the excuse that was used for a long time to deny votes to city people. Because they did not own as much land and did not put as much money into the economy, they should have fewer votes. Somehow or other in the past 20 years there has been a role reversal.

The Hon. Anne Levy: This is one specific issue: providing money.

The Hon. M.J. ELLIOTT: It can be applied to a few others, for example, taxes. If a person owns more than one property, I assume that entitles him to only one vote. What percentage of landowners own 75 per cent of the land area? My suspicion is that it would be well less than 50 per cent because several large landholders would contribute quickly to that 75 per cent.

The Hon. ANNE LEVY: It is impossible to give such a figure because it depends on the size of the area that is being considered. It is a bit like asking how long is a piece of string. If the areas were clearly defined—I do not have the information here—we would be able to determine for any given area whether one landholder owns 75 per cent of that area. When the areas are not defined on any map or specified in any way, the area concerned depends on each situation and the water control problem in that area. Without specifying what these areas are, it is an unanswerable question.

The Hon. M.J. ELLIOTT: My point is that it is quite likely that there will be a number of areas where fewer than half the landholders own as much as 75 per cent of the total available land within an area for which works are proposed. As such, at least in the democratic sense of one person, one vote, one value, that is being denied. While it might be argued reasonably that some of those larger landholders make a larger contribution, there might be times that they will get the greatest benefit. For whatever economic reasons that prevail at the time, they might be more capable of affording the works whereas a significant number of smaller landholders might not be in a position to do so, but they would be condemned to do so.

The Hon. Anne Levy: They do have a right of appeal.

The Hon. M.J. ELLIOTT: I am not sure that offers sufficient protection. I argue that a far better protection is by way of numbers. I suspect that other clauses in this Bill might need further attention, so we might arrive at a com-

promise on this. I suggest that the clause could provide for 75 per cent of the total area, supported by a percentage of the landholders. It need not be 50 per cent. Even if it provided for 75 per cent of the land area and 60 per cent of the landholders, that might be a compromise position.

The Hon. Anne Levy: Even under one vote one value it would be 50 per cent. Do you mean 75 per cent of the area and perhaps a minimum of 40 per cent?

The Hon. M.J. ELLIOTT: I am also mindful of one other possibility, which is called the tyranny of the majority. If some expensive works are to be carried out but some people in the area really cannot afford it, the tyranny of the majority will prevail.

For that reason I think we really need that majority to be as large as possible, to reduce the chances of inflicting what might be significant costs from time to time. I have sympathy for what the Hon. Mr Irwin is seeking to achieve, so to keep the issue alive I will support the amendment, but I suggest that there might be a further way around the matter that we might consider at a later stage.

Amendment carried; clause as amended passed.

Clauses 40 to 44 passed.

Clause 45—'Water not to be taken from board or council water management works.'

The Hon. J.C. IRWIN: I move:

Page 17, line 19—Leave out 'Minister' and insert 'Board'.

This relates to water not being taken from board or council water management works. Again, the clause provides that a person must not, without the permission of the Minister, take water from any board or council water management works. I believe that we should insert 'Board' here so that the provision reads:

A person must not, without the permission of the Board, take water from any Board or Council water management works.

The Hon. ANNE LEVY: The Government opposes this for the same reasons as have applied in similar cases. It is felt that it is most important that the Minister should have control over the water resources of the State.

The Hon. M.J. ELLIOTT: This is really consequential on an amendment that was defeated earlier. I oppose the amendment.

Amendment negatived; clause passed.

Clause 46 passed.

Clause 47—'Permission may be conditional.'

The Hon. J.C. IRWIN: I move:

Page 17, line 29—Leave out 'person granting the permission' and insert 'relevant authority'.

This clause is under Division III—Offences and provides:

The granting of permission under this Division may be subject to such conditions as the person granting the permission thinks fit.

This amendment is to insert 'relevant authority' in place of 'person granting the permission'.

The Hon. ANNE LEVY: The Government opposes this. It is consequential on the three previous amendments, where the Hon. Mr Irwin wished to replace 'Minister' with 'Board'. On those three occasions the amendments were not accepted by the Committee. This, too, is consequential on that and so is not necessary.

The Hon. J.C. IRWIN: For my benefit, would the Minister explain that a bit further? As I read it, the person who has given that permission may be the chief executive officer of the board, and that then flows back to the Minister.

The Hon. ANNE LEVY: Yes, to the Minister or the person to whom the Minister has delegated any authority. Had the amendment to replace 'Minister' with 'board' been successful we would have needed to write in 'relative authority', but as it remains 'Minister' it is unnecessary to make that change.

Amendment negatived; clause passed.

Clauses 48 to 58 passed.

New clause 58a—'Money for the purposes of this Act.'

The Hon. J.C. IRWIN: I move:

Page 20—After clause 58 insert new clause as follows:

Money for the purposes of this Act

58a. The money required for the purposes of this Act will be paid out on money appropriated by Parliament for the purpose.

Simply and quickly, there is no provision for drainage rates in this Bill, and I understand there is no move for local government to make a contribution at this stage. If this amendment is accepted, it takes away the fear which is expressed and which I hear in some parts of the South-East, namely, that if this is accepted, the money required for the purposes of this Act will be paid out of money appropriated by Parliament for that purpose, and no other moneys will be raised in the localised area for the general running of this legislation.

The Hon. ANNE LEVY: The Government opposes this on a number of grounds. First, this is not a money Bill but, apart from that, there is the question that clause 39 of the Bill provides for landholders to reach agreement with the board in jointly funding any new capital works. The honourable member's proposed clause could give a false impression to landholders that the Government alone will pay for future drainage works. That is not the case, as is clearly set out in clause 39, and it would be unfortunate to give such an impression to landholders and it would obviously disappoint them if they found out otherwise.

Most importantly, I understand that originally the Opposition moved this amendment in another place to ensure that drainage rating cannot be reintroduced. The Minister has given an assurance, which I am happy to repeat, that this Bill as it stands now does not permit any form of drainage rating to be introduced. Under this Bill as it stands, it will not be possible or legal to introduce drainage rating. If there were any proposals for drainage rating to be introduced again, there would have to be an amendment to this legislation. It would have to come back before this Parliament, and the question of drainage rating would be considered by the Parliament at that time.

It is unnecessary to put this in to prevent drainage rating. As the Bill stands without this clause, drainage rating cannot occur without further legislative amendment, and it would be most unfortunate to give the impression that all future drainage works will be entirely funded by the Government when clause 39 has made quite clear that agreements will be reached with individual landholders for them to contribute.

The Hon. M.J. ELLIOTT: The only point that I can see where moneys are being raised by the Government are really in the clauses around clause 39, where there is a power to require landholders to contribute to the cost of the works, but that is something that the Opposition has not opposed. In the absence of any way that the Government can force money to be raised in a way other than particular works that have been approved by the local landholders, the clause is unnecessary and I will oppose it.

New clause negatived.

Clause 59, schedules and title passed.

Bill read a third time and passed.

REAL PROPERTY (SURVEY ACT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 February. Page 3050.)

The Hon. R.I. LUCAS (Leader of the Opposition): It is with great pleasure that I rise to support the second reading of the Real Property (Survey Act) Amendment Bill. It is with even greater pleasure that I indicate to you, Mr President, and to other members that the Bill will not take a large amount of time. It will certainly not take the amount of time we spent last evening debating the Survey Bill. This particular measure is related to that debate last evening. I will briefly summarise the major aspects of the Bill. The current arrangements for boundary determination procedures are based on a number of common law precedents, which the Minister and her adviser indicated last night were established by the court early this century and do not necessarily recognise survey measurement as defining the positions of title boundaries.

To introduce the coordinated cadastre it is necessary to amend the Real Property Act to provide legal status to coordinates determined from the survey measurements. This Bill provides that status. In addition, it allows the courts the authority to rebut coordinates and make provision for the correction of errors in the coordinated cadastre. The other aspect that would be of interest to members is that the amendments to the Real Property Act contained in this Bill require the Registrar-General to alter the certificates of title of land in confused boundary areas to reflect the new boundary details as surveyed.

We spent a little time last evening talking about what the Survey Bill described as 'confused boundary areas'. They are those old established areas of Adelaide and some provincial towns and cities in South Australia where poor survey work has perhaps led to errors in survey lines and therefore errors in boundaries between residential properties. The Survey Bill summarises that as a confused boundary area. This legislation is a way of assisting in the resolution of that, together with the Survey Bill already discussed. So, for those reasons, I indicate the Liberal Party's wholehearted support for the Real Property (Survey Act) Amendment Bill and it is with much pleasure—and some relief—that we bid farewell to both this Bill and the Survey Bill.

The Hon. ANNE LEVY: I thank the honourable member for his support. As the sun sinks slowly into the west we will be able to close this topic.

Bill read a second time and taken through its remaining stages.

SUBORDINATE LEGISLATION (EXPIRY) AMENDMENT BILL

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Postponement of expiry.'

The Hon. J.C. BURDETT: I move:

Page 2, lines 17 to 19—Leave out subsection (1) and insert:

(1) The regulations may postpone the expiry of a regulation under this Part for a period or periods not exceeding two years at a time and not exceeding four years in aggregate.

The parent Act provided that regulations could be exempted from expiry by regulation, and the practical effect of this was that they were exempted forever. The main purpose of the Bill before us is to remedy that, because that was not satisfactory, and clause 4 provides that regulations may postpone the expiry of a regulation under this Part for a period not exceeding two years and, from time to time, for further periods not exceeding two years each. The Bill is pursuant to a review of the Subordinate Legislation Act and regulations set up by the Attorney. Page 7 of the review report reads:

Realistically, however, provisions will need to be made for further such postponements (although a limit on the number of extensions given may need to be considered).

I raised this in my second reading contribution and the Attorney, in his response, very kindly invited me to do something about it if I wished. This amendment takes up the suggestion in the review and provides that the regulations may postpone the expiry of regulation under this Part for a period or periods not exceeding two years at a time and not exceeding four years in aggregate.

In discussion with Parliamentary Counsel it was suggested to me that, instead of limiting the number of times, it would be wiser to limit the periods, so that if it were two of two years, that would be four years in aggregate or a total, with a 10 year period, of 14 years. It was suggested that it would be wiser to use a period rather than a number of times that the regulation could be extended or that expiry could be postponed, because if a department were acting responsibly and thought that there would be only a short period necessary for postponement, it could be that the regulation would say two months or three months, or something like that, and it would be wrong if that were counted as one.

Amendment carried; clause passed.

Title passed.

Bill read a third time and passed.

[*Sitting suspended from 5.36 to 7.45 p.m.*]

HOUSING LOANS REDEMPTION FUND (USE OF FUND SURPLUSES) AMENDMENT BILL

In Committee.

Clauses 1 and 2 passed.

The Hon. L.H. DAVIS: I move:

Page 2, lines 2 and 3—Leave out the last two words from line 2 and words from all line 3 and insert—

(a) assisting the provision of housing for persons in necessitous circumstances by charitable organistions;

or

(b) providing or assisting the provision of housing for disabled persons in necessitous circumstances.

The CHAIRMAN: As it is a money clause, it will be a suggestion to the House.

The Hon. L.H. DAVIS: This is not an amendment that we feel passionately about but, in our view, it perhaps delineates more clearly the purposes for which these moneys will be spent when they are transferred from the surplus built up in the Housing Loans Redemption Fund to the South Australian Housing Trust. As I explained in my second reading speech, some $7 million surplus is available and, admittedly, clause 3 ensures that that $7 million cannot be used for any purpose other than to build cottage flats or other dwellings to be let to persons in necessitous circumstances. It may well be thought that that is a sufficient guarantee that the moneys will be applied for housing and, more particularly, for people in necessitous circumstances.

However, the amendment from the Liberal Party seeks to further clarify the point and suggests that it might be useful in these difficult economic times in which we live to recognise that not only does the Housing Trust develop housing for people in necessitous circumstances but also a number of charitable organisations are in the same field. The Attorney-General may well have heard me before dur-

ing the debate on the cooperative housing association legislation make the point that, in my view, one of the great strengths of cooperative housing has been the cooperative housing model followed by community organisations such as Bedford Park and church and community groups.

It is an excellent opportunity to apply some of the funds, this one-off $7 million surplus being transferred to consolidated account, for use by charitable organisations. We will not give a definite percentage.

The Hon. I. Gilfillan: Do cooperatives come into that?

The Hon. L.H. DAVIS: Well, I was saying there are charitable organisations which, for example, have housing programs and cooperative models.

The Hon. I. Gilfillan interjecting:

The Hon. L.H. DAVIS: I have been quite consistent in my arguments in relation to community housing, and I am on the record, as the Hon. Mr Gilfillan knows, as having praised the community organisations involved in cooperative housing, such as Bedford Industries, the church and community groups, of which there are many. I think this is an opportunity to give the private sector some of the money that has built up over the years. I do not see any valid reason why it should be directed only to the Housing Trust. No explanation is given for it in the second reading speech. It is obviously a very convenient vehicle. One has nothing but praise for the quality of the housing put up by the Housing Trust, but to say that it should be the only beneficiary is an argument that is not pursued with any clarity and conviction in the second reading. There is a reasonable argument to say that that largesse should be spread between the private and the public sector. That deals with paragraph *(a)* of the amendment.

In relation to paragraph *(b)*, when we talk about people in necessitous circumstances we are neglecting another important area of housing need—people who are disabled. There is a severe housing crisis for disabled people and, given the straitened circumstances in which we find ourselves in South Australia with budget cuts in prospect, revenue down on budget estimates and borrowings up because of the blow-outs in the State Bank and SGIC, there is again a very strong argument to say that perhaps this money could also be applied to the provision of housing for disabled persons in necessitous circumstances.

Therefore, it is a pretty reasonable amendment. I do not think anyone could object to the intent and purpose behind the amendment. It gives more flexibility for the use of this $7 million surplus that has been accumulated in the Housing Loans Redemption Fund. We know from the Public Actuary that there is no question whatsoever that that $7 million is available. I would like to think that the Australian Democrats have given due consideration to this measure and, fundamentally, what we are debating here tonight is how to spend the $7 million. Very simply and plainly, our argument is to broaden the use of that money to not only leave it with the Housing Trust for the purpose of building cottage flats or other dwellings to be let to persons in necessitous circumstances, but to assist generally in the provision of housing for persons by charitable organisations and for housing for the disabled. I hope the Attorney-General gives due consideration to the amendment.

The Hon. C.J. SUMNER: I have given due consideration to it, and I oppose it. In the House of Assembly the Opposition proposed a similar amendment. It was opposed by the Government and defeated there. The proposed change would unnecessarily restrict the use of surplus funds by the Housing Trust. As the Bill stands, the trust can use the funds to provide housing to persons in need. This includes all classes of needy people. The amendment would restrict the trust to using the funds only for the benefit of disabled people or for the benefit of persons catered for by charitable organisations. The Government would prefer the trust to be able to use the surplus funds for the benefit of any person in need. The trust budget already includes provision for grants to community housing associations, including associations operated by charitable organisations. In 1991-92, the amount provided was $6.4 million.

The Hon. I. GILFILLAN: I am not persuaded that the amendment adds any particular value to the Bill, with due respect to the argument put by the mover. It seems as though his aims can be achieved with the wording that is currently in the Bill. The words 'persons in necessitous circumstances' allows a flexibility and range of interpretation that would embrace the circumstances that the Hon. Legh Davis described, and I am influenced to a degree, I would expect, by the fact that the Attorney-General has given it due consideration. My interpretation of the wording is that 'necessitous circumstances' embraces a wide range of people who are deserving of help.

The Hon. L.H. DAVIS: The Hon. Ian Gilfillan is a flexible politician and obviously he did not quite catch the first point of my argument. As clause 3 (3) now stands, the only beneficiary of this $7 million, which represents perhaps 80 or 90 houses, can be the trust. It is for this place to judge whether it is happy with that or whether it believes that in these difficult economic times that money is not merely the province of a statutory authority of the Crown, but should also be spread amongst charitable organisations with a reputation for and experience in building housing for people in necessitous circumstances.

I think the broader interpretation that has been put on this proposal by the Opposition is reasonable and that it will be welcomed by charitable organisations. If we are talking about $7 million (as a rule of thumb, say, $90 000 per house), we are talking about the possibility of 80 houses. It is not unreasonable to ask why that split should not be made 50/50. It is a practical proposal. I should have thought that, having explained that perhaps more clearly, the Democrats might be happy to accept it.

Suggested amendment negatived; clause passed.

Clause 4 and title passed.

Bill read a third time and passed.

PITJANTJATJARA LAND RIGHTS ACT

Consideration in Committee of the House of Assembly's resolution:

That this House resolves that an address be forwarded to Her Excellency the Governor pursuant to section 42c (11) of the Pitjantjatjara Land Rights Act 1981 that section 42c of the Act shall continue in operation for a further five years.

The Hon. C.J. SUMNER (Attorney-General): I move:

That the resolution be agreed to.

This motion, if carried, will enable the Pitjantjatjara Lands Parliamentary Committee to be continued. Section 42c (11) expires on the fifth anniversary. For the section to continue in operation, and therefore for the committee to be continued, it is necessary, pursuant to section 42c (11), to pass this resolution. That will enable the committee to continue in operation for a further five years.

The Hon. K.T. GRIFFIN secured the adjournment of the debate.

STATUTES AMENDMENT (SENTENCING) BILL

In Committee.

Clauses 1 to 6 passed.

Clause 7—'Duty of court to fix or extend non-parole periods.'

The Hon. K.T. GRIFFIN: I move:

Page 3, after line 22—Insert new paragraph as follows:

(ca) by inserting after subsection (6) the following subsection:

(6a) The Crown must be notified of any application made by the Chairman of the Parole Board under this section.

Section 32 of the principal Act deals with the duty of a court to fix or extend non-parole periods. The amendment deals specifically with an application by the Chairman of the Parole Board for a non-parole period to be fixed in a limited number of cases where the prisoner has not had such a period fixed by the court and is not prepared to make an application to do so. The amendment is largely procedural. However, I want to ensure that in cases where the Chairman of the Parole Board makes an application the Crown must be notified of the application. One would expect that in the ordinary course that would occur, but I think there is a need to have that spelt out, so that if there is some difference of view between the Chairman of the Parole Board and the Crown that can be reflected in any argument before the court.

Amendment carried; clause as amended passed.

Clauses 8 to 12 passed.

Clause 13—'Insertion of ss.50a and 50b.'

The Hon. K.T. GRIFFIN: I move:

Page 4—After line 36—Insert new subsection as follows:

(1a) The Minister cannot exercise his or her powers under subsection (1) to waive performance of more than ten hours under the one bond or order.

Clause 13 deals with variation of community service orders and with the power of the Minister to cancel unperformed hours of community service. New section 50b provides that if, on the application of a person required to perform community service pursuant to a bond or an order of a court, the Minister is satisfied that although some hours of community service remain unperformed, the person has substantially complied with the requirement; that there is no apparent intention on the person's part to deliberately evade his or her obligations under the bond order; and that sufficient reason exists for not insisting on performance of some or all of those hours, the Minister may, by instrument in writing, waive compliance with the requirement to perform those hours, or a specified number of them. The Minister must notify the probative or sentencing court of any exercise of powers under subsection (1). I am not sure what that notification is meant to allow, because ordinarily the court would not of its own motion vary a community service order, but would require an application from the defendant or the Crown. So, I am not sure of the reason for that notification, except perhaps to keep the court's records up to date.

However, the more important issue is whether the Minister should be able to vary the order of the court in relation to the hours of community service to be performed, and particularly to reduce those hours. I have a concern about the court doing this. On the one hand we have a referral to the court of increased responsibility for determining things like non-parole periods and other issues. Only yesterday we debated this question of release or discharge of a licence by a person who is mentally incapable, yet in this provision the Government is proposing to give power to the Minister to discharge a community service order pursuant to a bond or an order of the court. I recognise the criteria which are attached, but they are very largely subjective; they are under the Minister's control. There is no notification, other than to the court, of what is occurring and it seems to me that it does open the way to abuse.

It raises the very issues to which the Attorney-General referred in his second reading speech on this Bill in relation to imprisonment in default of payment of a fine, where the executive arm of Government, through the Correctional Services Department, was actually receiving and discharging fine defaulters through the medium of a fax. I am pleased to see that that has been tightened up considerably, because the Government has recognised the problems which occur as a result of that practice, to which we have drawn attention on previous occasions because, if that does occur, it makes a mockery of the system of administration of justice and the penalties imposed by the courts. I recognise that in some respects there may be a need to make some minor variation of a community service order if the substantial part of it has been satisfied.

There may be some good administrative reasons for waiving performance in limited circumstances, so my amendment seeks to allow the Minister to waive performance of not more than 10 hours under the one bond or order. I am open to some suggestions in relation to the number of hours, but it seemed to me that that was not an unreasonable period, considering that it is in excess of one eight hour day's community work requirements. It seems to me that that would be adequate to deal with any administrative hiccup that might need to be corrected. So, I move the amendment with a view to limiting the power of the Minister to waive performance of hours of community service and hope that it will be supported.

The Hon. C.J. SUMNER: The Government opposes the amendment. The 10 hours would represent approximately only a week of community service and would therefore apply to a very small number of cases. It is considered that the power that is sought to be vested here in the Executive is appropriate. It is unnecessarily restrictive to limit the matter to any number of hours; it should be judged on a case by case basis. It is not an at large power of the Minister to cancel unperformed hours of community service; the criteria set down in the proposed section 50b must be met; there must be substantial compliance; there must be no deliberate evasion; and there must be sufficient reasons for not insisting on the performance of all or some of those hours; then compliance can be waived. So, there are fairly strict criteria on the waiving of compliance, and therefore we do not think it should be restricted to a certain number of hours.

The Hon. K.T. GRIFFIN: If the Attorney-General says that this represents only one week of community service and that that is quite an inadequate period in respect of which the Minister should be able to exercise powers to waive, could he give some indication of what range of hours the Government has in mind for the application of this provision? Is it one week or 10 weeks? In what circumstances does he expect it to be exercised by the Minister?

The Hon. C.J. SUMNER: It is difficult to specify the circumstances exactly, but one that has been drawn to my attention is the situation where a person obliged to perform community service had a motor vehicle accident. They had substantially complied but still had some 25 hours left, I am advised. They had had an apparently reasonably serious road accident, which meant that they could not work and comply with the order. It was felt that in that sort of circumstance the power to waive should exist. I understand that the Department of Correctional Services does not envisage that this would be used very often, but it is there

to deal with those sorts of cases and, obviously, there may be cases where the time left is more than 10 hours. The Government thinks that flexibility is desirable.

The Hon. I. GILFILLAN: I oppose the amendment. This question is covered and certain guidelines are spelt out in the Bill in paragraphs *(a)*, *(b)* and *(c)* and I believe that the flexibility of the hours should remain with the Minister.

Amendment negatived; clause passed.

Clauses 14 to 20 passed.

Clause 21—'Substitution of s. 61.'

The Hon. DIANA LAIDLAW: Before the Hon. Mr Griffin moves his amendments, I have a number of questions for the Attorney-General. When addressing this Bill during the second reading debate I noted that I had made contact with New South Wales and was awaiting information. Since that time I have received considerable information about the conditions that applied in New South Wales at the time that State moved to introduce similar measures in relation to driver's licence disqualification for default, which is covered in new section 61a. At the time New South Wales introduced its Bill in 1987, I am advised that there were some 55 000 outstanding arrest warrants and the total accumulated value of uncollected traffic and parking fines amounted to some $60 million. That figure was rising at $5 million to $6 million per annum.

Has the Attorney any similar information, on both counts, in respect of the situation in South Australia today, because he noted in the second reading debate that he saw this measure as one that would make a substantial contribution towards reducing the cost to the community of incarcerating fine defaulters and, hopefully, as a scheme that would prove successful in encouraging the payment of fines?

The Hon. C.J. SUMNER: I do not have those figures with respect to South Australia.

The Hon. DIANA LAIDLAW: So the Attorney is suggesting that, based on the New South Wales experience, we would hope to see a proportionately equally positive result. If the Attorney would be prepared to inquire about these figures and bring them back at some later stage, I would appreciate some advice so that we can measure the performance at a later stage.

I also note that in New South Wales a substantial advertising campaign was undertaken, which the Government at that time saw as a vital component of this new scheme in order to make offenders and potential offenders fully aware of the prospect of the cancellation of their licence and its consequences. Has the Government, as part of this measure, planned such an advertising campaign and, if so, when will it commence and how will such a campaign be waged?

The Hon. C.J. SUMNER: We do not have any plans to run such a campaign at this stage. However, I am happy to convey the honourable member's views on the topic to the responsible Minister who, I am sure, will consider them.

The Hon. DIANA LAIDLAW: The Attorney-General has noted that the New South Wales scheme has been successful and it has involved a moratorium on the cancellation action that operated over some six months. So, whereas the Bill was assented to on 17 December 1987 and commenced operation on 1 January 1988, in fact it was not until September 1988 that the measure came into operation. There was a moratorium as part of this advertising campaign. The NSW Government also posted some 87 600 cancellation letters to people who had outstanding fines and that measure alone collected $4.2 million. It may be that the Government, given the fact that it wants revenue, might look at that procedure to see whether at bulk postage rates it may be worth sending out letters to fine defaulters to see whether we can collect the revenue before they are threatened with the loss of their licence and, possibly the loss of their job and certainly curtailment of other liberties. I would be happy to provide this information to the Attorney-General or, perhaps, to the Minister in the other place, because the Road Transport Authority in New South Wales and the Minister's office there have indicated to me that they would be very pleased to cooperate with the Government here in making this scheme a success. It may be that the experience of New South Wales would ensure that the scheme is an equal success in South Australia.

The Hon. C.J. SUMNER: I thank the honourable member for her comments. I will certainly refer them to the Minister. However, the Act does state that a letter must be sent to a person and notice given before action can be taken to disqualify the licence. So, I assume that that will occur, but whether it is in exactly the same manner as the honourable member has indicated, I cannot say. Nevertheless, I am encouraged by the revenue possibilities that she has indicated and I will certainly refer all her comments to the responsible Minister.

The Hon. DIANA LAIDLAW: Also, I point out that the moratorium was also used as a period to refine procedures and to ensure certainty in computer processing of current matters referred by the Police Department and the courts with the Motor Vehicle Registration Division. There have been complaints in respect of police work in terms of red light cameras and speed cameras in this State and the lack of coordination between the Police Department and the Motor Vehicle Registration Division. Is the Attorney-General satisfied that these matters of procedure between the Police Department, the courts and the Motor Vehicle Registration Division are satisfactory at this stage to ensure that this measure could be implemented the day it is proclaimed?

The Hon. C.J. SUMNER: The department responsible has advised that it wants a three-month lead time, which is what is currently envisaged. I will certainly be contacting other States to see whether they can assist with computer programs and the like. The other matters raised by the honourable member will be referred to the Minister.

The Hon. I. GILFILLAN: The second reading explanation indicated that there have been two earlier steps to deal with fine defaulting, signified as a growing problem. Approximately 7 000 administrative releases by facsimile of fine defaulters from police stations occurred in the 12 months to September 1991. The Government was not prepared to allow this situation to continue. As I understand it, there were two stages. The first stage, discontinuation of administrative release by facsimile and overnight detention, was implemented on 4 December 1991. Stage 2 removed the use of administrative discharge for fine defaulters on 30 December 1991. According to the second reading explanation, there has been noted improvement in the payment of fines since the discontinuation of these procedures. Stage 3 is the amendment in clause 21 of the Bill, which provides that fine default periods are to be served cumulatively with each other.

The previous discussion, based on the questioning by the Hon. Diana Laidlaw, indicated increased revenue from fine collection. I am not sure whether the details she has sought embrace some request to indicate what sort of change in fine payment had taken place from stages 1 and 2 of this particular procedure. I assume the Government has made some calculation as to the estimated change that would take place as a result of stage 3. Otherwise, there seems little point in pushing on just on the off chance that it might help the situation. If there are some estimates, both on the evidence of stage 1 and stage 2, and the predictions of stage

3, is it possible for the Attorney to give that to the Committee now? If not, can he give an undertaking that he will provide that information in due course?

At the same time, will he provide an indication of the additional sentence times served by those fine defaulters who, rather than paying their fine, actually finish up serving the term of imprisonment, and what increase of that sentence time served will predictably take place as a result of stage three? The basis of the question is not just statistical. If we are talking of a dollars return in fines, we must also look at the dollar expense of possibly having some hundreds of people (although I do not know the figures) in prison.

The Hon. C.J. SUMNER: I will have to take those matters on notice and reply by letter.

The Hon. K.T. GRIFFIN: I move:

Page 6, lines 31 and 32—leave out 'liable to serve by virtue of any other such warrant' and insert 'serving or is liable to serve'.

My first amendment does not really relate to that issue but to new section 61. As I understand what is proposed under new section 61, where there are half a dozen warrants the period in respect of each warrant will be served cumulatively, but where there is a person who is in prison or who is liable to be imprisoned other than on a warrant, if a warrant is served then the period of imprisonment the subject of the warrant is to be served concurrently with any other period of imprisonment.

I can understand some of the administrative reasons for wanting to do that, but it tends to reduce the effectiveness of the default provisions, and what I would like to see is that, not only in relation to warrants for non-payment of fines, that they are served cumulatively when executed, but that the period of imprisonment on a warrant for default in payment of a fine should be added to the period of other imprisonment which the defendant may either be serving or be liable to serve.

That then means that the warrant actually means something and has some effect. The situation has been, I think, raised in both Houses of Parliament from time to time, of where a person is in prison for larceny, perhaps, illegal use of a motor vehicle or some other crime, and a handful of warrants for non-payment of fines is executed, all served concurrently with each other and with the period of imprisonment for which the person is already in gaol. I do not think that is an appropriate way to do it, so my amendment seeks to implement the position I have explained where, not only in relation to a handful of warrants, that they are served cumulatively but also a warrant, executed in relation to a person already in prison or to serve a period of imprisonment for other reasons, should have that period of imprisonment on the warrant in default of payment of a fine added to the period of imprisonment.

It has been explained to me that that will not make any significant difference to those with a non-parole period, because it does not extend the non-parole period. All it does is extend the period for which the defendant is on parole, so I do not think there will be problems. The only area where it might create some additional costs for the department is in circumstances where there is no non-parole period. I would think that in order to ensure that the default penalty means something, whatever cost is involved in that—which, as I say, I would suspect is not large—ought to be borne to ensure that the default penalty means something. My amendment is designed to achieve that objective and to take it further than the provision in the Bill.

The Hon. C.J. SUMNER: The Hon. Mr Griffin's amendment is opposed. Our amendments were drafted specifically to target fine defaulters in the community and to encourage them to meet their outstanding fines. As we have said, New South Wales has a similar system in place for similar reasons. I have also been advised by the Department of Correctional Services that an amendment along the lines proposed would lead to an increased requirement of 30 beds per day—which does not fit in with what the honourable member is suggesting, namely, that it will not have much of a resource impact. The cost of keeping one prisoner in prison is estimated at $69 000 per year. It is interesting that at some stage in the process when this Bill was first proposed for drafting, the Government proposed the same situation.

The Hon. K.T. Griffin: When it was introduced last year.

The Hon. C.J. SUMNER: It could have been. In any event, on consideration and after receiving this advice from the Department of Correctional Services, we have come back to applying the cumulative process to fine defaulting only. There is no mechanism in the Criminal Law (Sentencing) Act 1988 that would allow the courts to extend a prisoner's non-parole period to include the term of imprisonment set in default of payment of a pecuniary sum. All that would be achieved for prisoners with a non-parole period would be that the head sentence would be extended and the prisoner would be on parole for a longer period. Effectively, this would make the matter of serving a term for default of fine payment meaningless for a prisoner serving a non-parole period, a point that has already been made by the honourable member. For those reasons, we oppose it. It may be that there is some theoretical desirability in the honourable member's proposal but, in practical terms, it is not necessary, and the key to our proposal is to make serving of fine defaults cumulative.

The Hon. I. GILFILLAN: I oppose the amendment.

Amendment negatived.

The Hon. K.T. GRIFFIN: I move:

Page 6, line 42—Leave out '7' and insert '14'.
Page 7, line 4—Leave out 'substantially'.

My next two amendments deal with this issue of the driver's licence disqualification for default. As I indicated during the second reading, the Liberal Party supports the principle of the proposition, but there are some difficulties that need to be recognised and addressed. I do not think that they will have a significant impact on the results that the Government might expect, although it appears that they have not yet been quantified. As I understand it, the procedure under new section 61a is that if a person is in default of payment of a fine or other pecuniary sum arising out of an offence that involves the use of a motor vehicle, and if that default has continued for one month or more (that is, after the payment becomes due according to the order of the court), the court, instead of issuing a warrant, may disqualify the person from holding or obtaining a driver's licence until the sum has been fully satisfied. There is to be no notice to the defendant that the court is proposing to disqualify the licence, but notice is to be given by the Registrar of Motor Vehicles, personally or by post.

It is most likely, I suggest, that, notwithstanding the consequences of disqualification, the Registrar of Motor Vehicles will send the notification by post and that has some dangers for the defendant although, as I understand it, the Acts Interpretation Act does provide a mechanism for a defendant to prove that the notice was not received. That is not much good after the events have occurred. Under the Bill, a disqualification takes effect seven days after notice is given, unless the sum in default is paid before that time. I suppose that the seven days period is a somewhat arbitrary figure. It is unusually short, particularly if one takes into account the holiday period. If it is over Christmas or Easter, seven days is not a long time first to get the money together and then pay it or, even before that, to

ensure that the notice is delivered and received. It may be that at Christmas it will take more than the two days that Australia Post says it may take to have a letter delivered. I would prefer to see a period of something like 14 days to ensure a more reasonable period of time within which a notice may take effect.

The second aspect is that a court may revoke the disqualification if it is satisfied that the sum in default, although not paid in full, has been substantially reduced and a continued disqualification would result in undue hardship to the person. The concern I have is that the focus is on 'substantially reduced'. There ought to be evidence that it has been reduced, but all the information that has been given to me by legal practitioners, particularly those who act for people who have their licences disqualified, is that there is a kind of vicious cycle which begins with the disqualification so that disqualification may result in loss of job, loss of job means no money, no money means that the fine cannot be paid, no money being paid off the fine means that no licence is recovered and so the cycle goes on. If the criterion is that the defendant must show substantial reduction, even though there is undue hardship, it seems that it may well throw some people out onto the dole queues or on to welfare when I would hope that that is not the intention of the Government.

I recognise the Attorney's concern to ensure that it is as tight as possible, but it seems not unreasonable, if the court is to exercise a discretion, to place the emphasis on 'some reduction' and a focus on 'undue hardship'. In those circumstances it seems that equity can be achieved and the Government can achieve its objective in the majority of cases and ensure that in the small minority of cases the undue hardship is not extreme hardship.

The Hon. C.J. SUMNER: I understand from the Hon. Mr Gilfillan's mutterings at the back of the hall that he is amenable to supporting the amendment moved by the Hon. Mr Griffin. While the Government is opposed to it, I will not say anything more about it. However, I am more concerned about the mutterings which might mean the acceptance of the amendment to delete the word 'substantially' because that really significantly alters the sense of the section. It would mean that disqualification could be revoked if the sum was just reduced. It could be reduced by $2.

The Hon. Diana Laidlaw interjecting:

The Hon. C.J. SUMNER: That is right. They have to go to court, sure, but they will be going to court and using this as a loophole to get out of paying the fine. That is what will happen, and I suppose if that is what the Hon. Mr Griffin wants so be it. Certainly to have to go to court and satisfy the court that the sum in default, although not paid in full, has been substantially reduced and that continued disqualification would result in undue hardship is our proposition. The honourable member's proposition means that, even though the person had only reduced the sum by $1, $2 or even 50c, that is all that would be required to get the disqualification lifted. If that happens, that is the end of it.

The Hon. I. Gilfillan: They can work it off through community service—it says so in *(b)*.

The Hon. C.J. SUMNER: And if they do not do community service, where do we end up?

The Hon. I. Gilfillan: It again goes back—they are still disqualified.

The Hon. C.J. SUMNER: They may enter into an undertaking, but not do it.

The Hon. I. Gilfillan: Your mutterings are more innane than I have heard for a long time. You do not understand the ramifications of your own Bill.

The Hon. C.J. SUMNER: Are you in a bad temper today? I know that you are in a bad mood and I know that the Hon. Mr Griffin spoke too long for you. I will not speak for very long.

The Hon. Diana Laidlaw interjecting:

The Hon. C.J. SUMNER: I am not worried about that, or the first one in any event. With the second one we believe that it will be an incentive to get around the provisions of the Act. The Hon. Mr Gilfillan's mutterings indicate that he is supportive and there is nothing that I can do about it.

The Hon. I. GILFILLAN: I welcome the amendment and indicate to the mover that with the efficient way that we deal with the Committee stages, I was persuaded and as far as the Democrats are concerned it was not necessary to look for further argument. The first amendment to '14 days' is eminently constructive. We may get someone who, because of other factors, has not had a reasonable amount of time to absorb the notice. If one of the aims is to get the payment of the fine, the extra time will allow for a percentage of people to pay the fine before the mechanism of disqualification and all the problems of reversing that procedure, causing expensive book work, is put in train. It is an eminently sensible amendment.

The second one, which I do not think the Attorney understood when he started discussing it, is not a door whereby a person can avoid the consequences of default. Certainly the removal of the word 'substantially' makes some difference in the way that the court may interpret 'reduced', and I think that even the word 'substantially' is open to some dispute on how it should be interpreted. If the court in its wisdom sees that the reduction of $2 is enough to trigger off subclause 4 *(b)*, that person who has defaulted must enter an undertaking under section 67 to work off the sum in default by community service, which is a full penalty for an infringement anyway—it is just a different form of the penalty. The disqualification of the licence will be revoked because the court has seen that it will result in undue hardship to the person.

Instead of wasting time in making personal observations about my tone of voice being used in comments about it, the Attorney-General would have done better to objectively analyse the amendment and see, as I do, that it is eminently suitable.

The Hon. K.T. GRIFFIN: In briefly responding to the Attorney-General, with respect, I do not agree that it will create a significant incentive for those who do not want to pay their fines, not to pay them, on the basis that they then must go to court, have the disqualification removed, and then enter into an undertaking to perform community work. There may be some who take advantage of it, but we must ensure that the disqualification itself does not create the hardship and put a person in a position where he or she is unable to earn money to pay the fine. It is a ludicrous proposition that that should occur, and I would hope that the Government did not intend that that should be one of the consequences and just accept it blandly.

I would suggest to the Attorney-General that if, as it seems, my amendments are passed, then after this has been in operation for 12 months if there is a significant problem that will be the time to review it. I would suggest that it is sudden death as it is. The amendments will make it more equitable but that will still put pressure on a person not paying a fine to ensure that it is paid, otherwise disqualification will occur. I would suggest that if after, say, 12 months, the statistics indicate that there are significant difficulties with the way in which this is working, either as a result of my amendment or for any other reason, it would

be appropriate to review it and, in that time, we can also see how successful it is in relation to fine defaulters generally.

Amendments carried; clause as amended passed.

Clauses 22 to 36 passed.

Clause 37—'Substitution of s. 75b.'

The Hon. K.T. GRIFFIN: I move:

Page 12, line 42—Leave out '7' and insert '14'.
Page 13, line 2—Leave out 'substantially'.

The amendments are in relation to young offenders and follow the pattern of the amendments we have just debated.

Amendments carried; clause as amended passed.

Remaining clauses (38 to 49) and title passed.

Bill read a third time and passed.

SUMMARY OFFENCES (CHILD PORNOGRAPHY) AMENDMENT BILL

In Committee.

Clause 1 passed.

Clause 2—'Amendment of s. 33.'

The Hon. K.T. GRIFFIN: I move:

Page 2, line 14—Insert paragraph as follows:
(aa) by striking out from the definition of 'child' in subsection (1) '16' and substituting '18';.

During the course of the debate on the second reading I raised this issue of a different age limit in the definition of 'child' from that which is referred to in several of the paragraphs in subsection (2) of section 33 of the principal Act. A child is defined as a person under or apparently under the age of 16 years, yet in subsection (2) a person who delivers or exhibits indecent or offensive material to a minor other than a minor of whom the person is a parent or a guardian, or being a parent or guardian of a minor causes or permits the minor to deliver or exhibit indecent or offensive material to another person, commits an offence, and in that context a minor is a person under the age of 18. The Attorney-General acknowledged that there was an inconsistency and also drew attention to section 58b of the Criminal Law Consolidation Act, but he made the point that, in the Australian Law Reform Commission recommendations, under 18 was the preferred description of a child rather than 16, so I have taken the liberty of proposing an amendment that at least in relation to this section 33 would tidy that up, presuming from what the Attorney-General said that he was generally supportive of that. So if I move that first, I can then deal after that has been addressed with the generally substantive issue of the Bill, and that is the definition of child pornography. So the question of age comes first, and I move the amendment.

The Hon. C.J. SUMNER: The Government agrees that these age limits should be sorted out in this legislation because they are a little anomalous. However, we would prefer to do it by reviewing them all and coming up with a consistent approach to them. In my second reading reply I indicated that that would be looked at once the recommendations of the Australian Law Reform Commission on censorship procedure had been adopted. Of course, they will have to be the subject of consideration by Commonwealth and State Ministers responsible for censorship, and that has not yet occurred. The Government, with this amendment, is picking up just one of those recommendations because it felt that it deserved immediate attention. Our preferred position is for the Bill to remain as it is and we will review the age limits when the amendments that will flow from the Australian Law Reform Commission report are brought to the Parliament.

The Hon. I. GILFILLAN: I consider that the Bill should remain as it is. Even without predetermining what may be an opinion from the Australian Law Reform Commission, I think that 16 is a more appropriate year than 18 to have in the legislation.

The Hon. K.T. GRIFFIN: When are we likely to see the recommendations of the Australian Law Reform Commission being considered by the relevant Ministers and the Government?

The Hon. C.J. SUMNER: I do not know. I have not seen any program on it. I assume that, as the report has been brought down, it will be worked on by officers and dealt with at meetings of Ministers responsible for censorship this year.

The Hon. K.T. GRIFFIN: In the light of what the Hon. Mr Gilfillan has intimated, as there is this anomaly and as the Attorney-General is moving on one recommendation of the Australian Law Reform Commission in relation to child pornography, if my amendment does not succeed in relation to age, regardless of what progress might be made with the Ministers responsible for censorship, will the Attorney-General examine this issue, particularly in relation to child pornography—I think it is section 58b of the Criminal Law Consolidation Act—with a view to bringing something back at an earlier stage rather than waiting for the various Ministers to consider it?

The Hon. C.J. SUMNER: Yes. It may be possible, as we have two or three weeks before this is considered in another place, to look at the age limits. If we feel that something can be done in that time, we will do it. Certainly we will keep it under review and advise the honourable member.

Amendment negatived.

The Hon. K.T. GRIFFIN: I move:

Page 2, line 15—Leave out the definition of 'child pornography' and insert the following definition:
'child pornography' means indecent or offensive material, the indecent or offensive aspects of which arise in whole or in part from the manner or circumstances in which a child is depicted or described.

This is the more important of the two amendments at this stage because, as I indicated during second reading and as the Attorney-General acknowledged in his reply, there is a problem with the definition in the Bill. If the definition in the Bill remains rather than the amendment that I am proposing, I think it can create a number of problems. It might be helpful if I reiterate those problems. The definition in the Bill is:

'child pornography' means indecent or offensive material . . .

'Indecent material' is defined in the principal Act as:

material of which the subject matter is in whole or in part of an indecent, immoral or obscene nature.

Obviously that has to be qualified to relate it to a child depicted or described in such indecent material. Again, the principal Act contains the following definition:

'offensive material' means material of which the subject matter is or includes violence or cruelty, the manufacture, acquisition, supply or use of instruments of violence or cruelty, the manufacture, acquisition, supply, administration or use of drugs, instruction in crime or revolting or abhorrent phenomena and which, if generally disseminated, would cause serious and general offence amongst reasonable adult members of the community.

That is the qualification for the definition of 'offensive material'. If we relate that to what is in the Bill, 'child pornography' means 'indecent or offensive material', as defined, 'in which a child (whether engaged in sexual activity or not) . . .' 'Indecency' would tend to suggest some sexual involvement. Offensive material may not necessarily relate to sexual activity, because it may be violence or any of a number of other matters outlined in the definition. It

is possible that that could read down the definition. So 'child pornography' means:

> indecent or offensive material in which a child (whether engaged in sexual activity or not) is depicted or described in a way that is likely to cause offence to reasonable adult members of the community.

That is not a qualification of 'indecent material' in section 33, so there is a possibility that that will read down in some way what is in the definition of 'indecent material'. However, it is different from the qualification to the definition of 'offensive material'. Offensive material is subject matter, including certain things 'which, if generally disseminated, would cause serious and general offence amongst reasonable adult members of the community'. There is a difference in that criterion by which the offensive nature of the material is to be determined. With respect to those who have been involved in the drafting, I think there are problems with it which could create difficulties in the event of any prosecution.

I am proposing that child pornography means indecent or offensive material (and that is clear from the definition), the indecent or offensive aspects of which arise in whole or in part from the manner or circumstances in which a child is depicted or described, so that we are relating the involvement of the child to the material and the indecency or the offensiveness which determines that material. So, it seems that that adopts the definition in the principal Act but it also relates the involvement of the child to the indecent or offensive material, such that it then becomes child pornography. That is relevant in relation to a penalty and also to the additional offence of being in possession of child pornography. I think that will make clear what is child pornography, rather than the definition which is in the Bill and which, as I have already said, will create some problems in the event of a prosecution being launched.

I may not be 100 per cent correct, but I think I am correct in relation to the problems which the present definition in the Bill throws up. I think I have overcome it with this definition, and I would like to feel that the Attorney-General would agree with that, in the interests of ensuring that it does not create the sort of problems that I envisage if a prosecution is launched. If there is any reservation about it, the Attorney-General might accept it and, in the next three weeks, ponder on it. If it is a problem we can tidy it up, but I would suggest that there is not a problem with it and that, in fact, careful examination will reveal that it is appropriate and not an issue upon which there can be argument if a prosecution is launched.

The Hon. C.J. SUMNER: I am not sure that I follow what the honourable member is on about.

The Hon. K.T. Griffin: Do you want me to go through it again?

The Hon. C.J. SUMNER: No, but from what I understand the honourable member would to some extent be narrowing the definition of 'child pornography' by his amendment.

The Hon. K.T. Griffin: I wouldn't have thought that.

The Hon. C.J. SUMNER: That is Parliamentary Counsel's advice. Perhaps that is desirable; I do not know. Perhaps the current definition that the Government has introduced is too broad, although in that case it does have to be indecent or offensive material. Parliamentary Counsel are relaxed about the amendment that they put in the Bill in the first place; they consider it to be adequate because it follows the Australian Law Reform Commission definition.

The Hon. K.T. Griffin: That may not necessarily take into account the context in which the definition occurs. I have not looked at the Australian Law Reform Commission recommendation. That might be appropriate if we do not have the two definitions to which I have already referred.

The Hon. C.J. SUMNER: I understand in that sense what the honourable member is saying, but I do not know; perhaps we just have to agree to differ on the point. Let Mr Gilfillan work it out, because—

The Hon. I. Gilfillan: What is all the laughter about? A few raucous members of the place were actually laughing at the suggestion.

The Hon. C.J. SUMNER: We rely on you to work it out every time. I do not think there is very much in it, but Parliamentary Counsel are not worried by the definition which they originally drafted.

The Hon. I. GILFILLAN: I do not understand the difference between the two drafts so, from that point of view, I will not be able to contribute much to the debate. However, I am interested to pick up the word 'described' in both drafts—both the amendment and the original in the Bill. I assume that means the printed word so that it may be possible or foreseeable that *Lolita* could be determined to be child pornography in some court. As I said in my second reading contribution, I am concerned that we do not see an over-energetic swing of the pendulum because of the justifiable concern at the objectionable and reprehensible exploitation of children to the extent that we retreat back to the days of censored material.

Although in statute or in established law there may already be reasonable safeguards so that there is a difference in the criteria used to determine pornography as depicted, as compared with described, it does not appear to me particularly difficult to imagine that there would be comics at least, and certainly written material, dealing with children. In one way that is why I am glad we have not lifted the age to 18; if I assume that that would embrace persons under the age of 18, there would be a wide area of material both depicted and described which I think could possibly be interpreted as child pornography. Under those circumstances and with the Bill as it is currently drafted, a person who is in possession of such material in an old trunk under the work bench in the back shed would be guilty of an offence and be liable for a division 6 fine or imprisonment.

The Hon. K.T. Griffin: The Attorney-General said mine is narrower, and will you support it?

The Hon. I. GILFILLAN: That is a point. On my understanding, looking at the actual words of it, I would have thought that to cause offence to reasonable adult members of the community is an inbuilt safeguard, and it is a question of determining who is a reasonable member and how they would react. However, as I see the wording of the Hon. Trevor Griffin's amendment, it does not seem to have that qualification in it, so it is really open-ended.

The Hon. K.T. Griffin: It is not; it relates back to a definition already in the Act.

The Hon. I. GILFILLAN: Yes, I must confess that, without having looked at the Act and pondered it, I recognised when I began my comments that I did not believe I was in a position to make a distinction between one or the other; I do not have enough information. I repeat the caution: I think we are duty bound to make sure that we do not overreact in this matter. I support the Bill as it is currently drafted and assume that, on further pondering, if the Attorney is persuaded otherwise, we will see it reintroduced in this place.

The Hon. K.T. GRIFFIN: I can understand the Hon. Mr Gilfillan being concerned about it, not having had a lot of opportunity to consider it. But I still say that there are major problems likely to arise as a result of the definition in the Bill, because no-one really knows what it will really

mean. It picks up indecent or offensive material, referring to the definition in the Act, in which a child (whether engaged in sexual activity or not)—it is not clear whether that is a qualification to what is in the principal Act or something else—is depicted or described in a way that is likely to cause offence to reasonable adult members of the community. That is qualifying the definition of indecent material so that it presumably reads down the definition of indecent material. It may not, but it may.

In relation to offensive material, one has to apply criteria to offensive material in which a child is depicted or described. One is 'if generally disseminated cause serious and general offence amongst reasonable adult members of the community'. That is in the definition. The other is in the definition of child pornography 'in a way that is likely to cause offence to reasonable adult members of the community'. It is a different standard. I do not know how one resolves the conflict and I would suggest that there will be debate about that if there is any prosecution.

I consulted with a criminal lawyer, a QC. I do not think it appropriate to identify him publicly, because he was looking at this matter on behalf of the Law Society, but did not want his views to be represented as those of the Law Society because it had not made a formal decision. He said that if this were to go to court there would be a range of arguments. I agree with him. I would hope that that could be recognised if one looks particularly at the differences between the definition that I am proposing and that in the Bill. If the majority of the Council decides not to accept my amendment, I have done the best I can and there is nothing more I can do. At least my view is on the record.

Amendment negatived; clause passed.

Title passed.

Bill read a third time and passed.

STATUTES REPEAL (EGG INDUSTRY) BILL

Adjourned debate on second reading.

(Continued from 17 March. Page 3208.)

The Hon. J.C. IRWIN: The Opposition supports the second reading of this Bill. It is with some reluctance that the Opposition supports this measure; reluctance because by supporting the Bill we will see the financial demise of some producers and the blame has to be placed firmly with the Government. I will go into these points in more detail later. The Bill seeks to repeal the Marketing of Eggs Act 1941 and the Egg Industry Stabilisation Act 1973. There is virtually no Committee stage, so any questions I may have will be addressed during my second reading contribution. Clause 3 (2) vests property rights and liabilities in the Minister of Agriculture. The Opposition will oppose that clause and move an amendment to it in Committee.

With the indulgence of the Council, let me make some comments on the 1986 attempts to deregulate the egg industry. First, there was the deregulation of the pricing of eggs. The Opposition agreed to that, but only if the pulping plant stayed with the board. However, it was considered that the current stockpile levels of the pulping plant were too high and, if reduced, would achieve a significant reduction in labour and storage costs. Secondly, we agreed to quotas on production being retained, as the Minister was indicating a five-year plan. Thirdly, we supported the new authority in determining and releasing hen quotas contingent on quotas and production.

Fourthly, we disagreed with the disbandment of the South Australian Egg Board and disagreed very firmly with selling off all the board's assets. Fifth, we disagreed with the size of the planned authority and also recommended the reduction of the size of the board by two, with strong support from the industry. We recommended that the employees should be employed under commercial conditions and not be subject to Public Service Association restrictions, a matter which is still haunting the industry and, indeed, the Minister today. Sixth, the assessment of the sale of assets was to raise approximately $1.5 million. The Opposition was, as stated previously, strongly against the sale of the assets. The figure of $1.5 million was questioned. Seventh, the funds raised from the sale of the assets were to be used to redeploy staff, and questions were asked about what were these costs over and above what should be put aside for portability of entitlement.

Eighth, it was proposed that the funds be used to support egg industry projects approved by the Minister and that could include sales promotion. The Opposition argued that the sales promotion should be addressed by the board after consultation with the industry. Ninth, it was proposed that the board act as an agent for the collection of the Commonwealth hen levy under the Poultry Industry Levy Act and under other Acts. Through the collection of the levy imposed on its members under this Bill, on a voluntary basis, the industry received benefits from the Commonwealth for in particular, research and other matters. I pointed out previously that the Minister should explain who would collect levies and how they would be collected. We also agreed to increase the number of hens without licence from 20 to 50. The tenth proposal concerned computerisation. The eleventh proposal concerned carton packaging, and the board was removing itself from participation in carton purchasing. Under the amended arrangements it would have no involvement in carton purchase or storage.

These were the broad issues addressed by the Parliament in 1986. As members know, this Council did not support the second reading of the Bill and it therefore lapsed. Of course, there can be and has been much argument about the actions at that time and about what would be the position today if that Bill had passed. Members know that there will always be a conflict between orderly marketing and deregulation.

It is my view that, whatever the philosophical arguments, the marketing of primary products will always be of a cyclical nature. The growers of primary products have always worked with this problem; it is a result of both nature and markets. There is no doubt that research and development has taken many of the peaks and troughs out of the availability of some primary products and I refer in particular to eggs and milk. With milk one can see the increase in production throughout South Australia at the moment, with vastly decreased numbers of cows and area of production.

To put it in very simple terms, I am saying that the first day of deregulated markets is the first day of a move towards another regulation cycle. We do not oppose deregulation, but, more often than not, we do oppose the way it is being done and the proposals of deregulation; the fine tuning, if you like. The South Australian Egg Board was established by legislation in 1941. The responsibility of this board was to control egg marketing, set egg prices, regulate weights of egg, and quality, as well as to promote the industry. The Council of Egg Marketing Authorities of Australia introduced a stabilisation scheme in 1965 with an objective of ensuring that all producers shared proportionately to their share of production and the lower returns from exports; again very common.

Those of you who can remember the argument of milk production, the butter mountains of the EEC, the butter

mountains of Australia and the production of New Zealand would remember that the lower returns are always in that export area and, generally, take off the over-production. A levy was imposed on commercial flocks, collected by State Egg Boards on behalf of the Commonwealth, and payments reimbursed to the States for the difference between returns of the domestic and export markets, which were termed export losses, and on 1 July 1987 this function became a State responsibility.

That was after the debate we had here in 1986. The Egg Industry Stabilisation Act 1973 was proclaimed in 1973 to control egg production by means of hen quotas at a time when egg production was increasing and exports were becoming unprofitable. Faced with shrinking export returns and continued increases in production, the industry as a whole accepted the need for production control. A quota on hen numbers was instituted. In 1972 all States agreed to the implementation of production controls.

This decision was taken on the understanding that the Australian Government would consider assistance to reduce the surplus of eggs so that the industry could operate more profitably in relation to available market outlets. In October 1986 the then Minister of Agriculture (Hon. Kym Mayes) introduced a Bill to repeal the Egg Marketing Act, which I have already mentioned, and the Egg Industry Stabilisation Act. These two Acts were to be replaced with the one Egg Control Authority Act. In this debate a quote from the *Advertiser* of 17 September 1986 was read into *Hansard* and bears repeating today. That article stated:

> Up to 400 producers would be forced out and at least 1 000 jobs lost in South Australia if the Government abolished the Egg Board, an executive of the United Farmers and Stockowners of South Australia said last night. Mr David Dean said deregulation of the industry would have a detrimental effect on the quality of eggs being sold to South Australian consumers. The move would be a major blow to both producers and the buying public. Quality control measures enforced by the board would not exist under the proposed legislation.

Although the number of producers has dropped—in 1990-91 we had 268 producers—a considerable drop from the 1986 figures and the number of hens and pullets for egg production has also fallen from 1.043 million in 1989 to 796 000 in 1991, the same financial problem exists for some producers. Many will go to the wall. I wonder whether the Minister has any idea just how many will go to the wall as a result of this Bill.

I should also like to know how many people will lose their jobs on the farms and in the whole production cycle as a result of this Bill. As a part of my consultation on the Bill I received a letter from a major bank, which reads:

> The impact of the Bill is significant in that it will immediately adversely affect the capital asset value of all egg producing businesses. In conjunction with this, of course, is the substantial reduction in profitability for such establishments due to a lower return for eggs. We know of some egg producers whose financial position is strained to the extent that the Bill will probably result in their financial demise. This will be associated with likely significant loss to many members.
>
> We have a fair degree of exposure to the egg industry, with many long-term loans written when measures (that is egg quotas) implemented by the Government clearly indicated a commitment to regulation and safeguarding the income and debt servicing capacity of our borrowers. Interstate deregulation is the basic cause of the need for the Bill, and this is completely beyond our control. Frankly, we can see there is little if anything that can be done apart from compensation, and this does not appear a realistic option, based on strong statements in this respect made by the Minister.

In South Australia in 1989-90 the gross value of egg production was recorded by the Australian Bureau of Statistics as $24.2 million. South Australia produces around 7 per cent of Australian production. The South Australian egg industry is characterised by a small number of large producers and a large number of small producers who, in a deregulated market, would have difficulty finding an assured outlet for their product.

The majority of eggs are sold through large supermarket chains that require high volume suppliers, which would preclude small producers from this market segment. I seek leave to have inserted in *Hansard* a purely statistical table showing the size structure of the South Australian egg industry in 1990-91.

Leave granted.

Size structure of the South Australian Egg Industry 1990-91

Farm Size	Number
1-75	9
76-150	40
151-500	94
501-1 000	36
1 001-2 000	25
2 001-5 000	18
5 001-10 000	22
10 001-20 000	15
20 001- —	9
Total	268

The Hon. J.C. IRWIN: It shows, although I will not go through it all, that there are nine farms with one to 75 hens; there are 18 in the middle range of 2 001 to 5 000 birds; there are 15 farms of 10 001 to 20 000; and there are nine farms with 20 001 and above. The producers who have farms with over 5 000 birds produce 80-85 per cent of the total eggs in the State. At present the Marketing of Eggs Act 1981 stipulates requirements for the marketing of eggs as: eggs (with some limited exceptions) are vested in the board; producers may not (with limited exceptions) deliver or sell eggs to any person other than the board or a registered agent of the board; the board must sell all eggs of which it becomes the owner to such persons and at such prices and such terms as it thinks proper; the board must (with limited exceptions) grade or cause to be graded all eggs delivered to it; and grades are prescribed by regulation; prices paid to producers vary according to the grade of eggs; the board may deduct from the proceeds of the sale of any eggs and retain a sum equal to the amount of money spent by the board in and about the transport, storage, grading, drying, pulping, packing and marketing of the eggs and a contribution towards the cost of the administration of the Act, any money necessary to repay any advance made to the board and interest on such advance.

Because the present Act is silent on the matter of the board's objectives, any review of the Egg Board does not have guidelines to work to to assess whether the board is working within specified objectives. This has been an unfortunate omission, as we have seen in the past few years, with debts increasing at alarming rates. I seek leave to have inserted in *Hansard* a table of statistics showing farm gate egg prices by end use in January 1991.

Leave granted.

Farm gate egg price by end use January 1991

End Use	cents/dozen
Shell eggs	143
Pulp	103
Export shell	85

The Hon. J.C. IRWIN: This fairly simple table shows the end use and the price in cents per dozen, showing shell eggs at 143c; pulp at 103c; and export shell at 85c. The board instigated the new pricing policies in 1990 to overcome the equalised price for all eggs, which was grossly inefficient. The result of this is that there is a net loss to the industry that is being made up by the equalisation levy on producers. I seek leave to have inserted in *Hansard*

another table of statistics, showing the levy increases in the past eight months.

Leave granted.

Levy increases in the past 8 months

Date	Hen charge per 1 000 birds	Cost per 2 weeks $
22.6.91	6 cents	60
6.7.91	6.5 cents	
	Building fund 4.5 cents	100
17.8.91	Hen charge + building charge 12 cents	120
14.9.91	Hen charge + building charge 15 cents	150
15.2.92	Hen charge + building charge 28 cents	280

The Hon. J.C. IRWIN: This table shows that on 22 June 1991—eight or nine months ago—hen charges per 1 000 birds was 6 cents and therefore the cost of that was 60 cents every two weeks. On 15 February this year hen levies were 28 cents and the cost per thousand birds for two weeks was $280. The South Australian Egg Board currently levies all licensed producers 28 cents per bird per fortnight to pay for all promotion, quality control, inspection and general administration. In 1991 the New South Wales Government deregulated its industry and subsidised its growers to the tune of $61 million for the losses that it would incurr as a result. Since then eggs have been sold in South Australia from New South Wales at very competitive prices, forcing the Egg Board to increase levies to the growers as well as reducing farm gate prices by 20 cents a dozen since July 1991. Again I seek leave to have inserted in *Hansard* a statistical table showing the egg price fall since 29 June 1991.

Leave granted.

EGG PRICES SHOWING FALL

	XL	L	M	Com	S/Q
29.6.91	1.51	1.41	1.38	.96	.91
17.7.91	1.42	1.31	1.25	.60	.65
26.7.91	1.33	1.27	1.25	.60	.65
28.8.91	1.29	1.25	1.21	.60	.65
Fall	.22	.16	.17	.36	.26

The Hon. J.C. IRWIN: The table shows the fall for eggs between 26 June 1991 to 28 August 1991. I will indicate the sizes. The XL egg fell 22 cents, the L egg fell 16 cents, the M egg fell 17 cents, the COM egg fell 36 cents and the S/Q egg fell 26 cents. The important thing is that the average price paid on 28 August 1991 was $1 per dozen. The hen levy at 15 February 1992 was 32 cents, which left 68 cents a dozen. If the farm is running at 100 per cent of quota, the industry figure for cost of production is $1.40 per dozen. Farms do not operate at 100 per cent quota and the loss on the average one dozen eggs is in excess of 72 cents. I seek leave to have inserted in *Hansard* a purely statistical table showing the average farm gate price in cents per dozen eggs and comparing 1980 prices with 1990 prices.

Leave granted.

	Average farm gate egg prices (nominal cents/dozen)	(Cents/dozen in 1980 values)
1980	82.02	82.02
1981	90.70	82.44
1982	98.66	80.90
1983	110.68	83.23
1984	105.75	76.88
1985	108.52	72.82
1986	111.00	68.15
1987	121.20	69.69
1988	115.90	62.35
1989	124.00	62.12
1990	127.00	59.06

The Hon. J.C. IRWIN: The table shows cents per dozen in 1980 values. In 1980 the average farm gate price was 82.02 cents and in 1990 the average farm gate price in equalised values was 59.06 cents. The table therefore shows the average nominal farm gate price over the period 1980 to 1990, and the equivalent egg price is deflated by the consumer price index to 1980 values.

In real terms producer egg prices have fallen significantly since 1980. Increases in industry productivity have to some degree been reflected in reduced unit producer prices set by the board. That is at least part of the increase in industry productivity that has been to the benefit of consumers by way of declining real egg prices paid to producers. In 1987 the difference between the farm gate price of eggs and the average retail price was 74 cents. In 1990 the difference had increased to 98 cents, indicating that increases in farm efficiency and productivity have not all been passed on to the consumer.

I also indicate that, while the farm gate price lifted 4 per cent in the years 1987 to 1990, the retail price rose 14.8 per cent in the same period. I make the point here, as I have before in this sort of debate, that the whole argument is one sided. While the producers have done all that they can to contain costs, the retailers have not been so successful, even though I acknowledge that the retail industry is in a very competitive arena. One of the main reasons for this is that labour costs have not been contained in the retail industry to the same extent as farmers have been able to achieve, bearing in mind that their own labour and that of their family is part of the cost structure of farms. Often the cry of deregulation only applies to the producers and never to other factors in the argument, for example, labour.

Too often we have the cry that deregulation will mean cheaper prices for food, eggs, potatoes or milk—we have heard it all. The Government gives no thought to the producer of the primary product. It never gives a thought to the farmer's labour or to the right of the farmer to be properly rewarded for that labour. I can understand the philosophical differences that we have, but the Labor Party's argument is always flawed and it certainly is not consistent. It is often the case that a farmer and his family have their superannuation, long service leave, sick pay and so on tied up in the capital value of their property, and not in the cash flow. If we pull out the regulation rug from under those who have been forced by our legislation to work under it, there is a responsibility to help pick up the pieces.

The decline of the board's performance over the past four years is quite staggering. Since its inception in 1941 through to 1988, the South Australian Egg Board had performed well and had not cost taxpayers a cent. The industry regulated itself with minimal levies. As my colleagues in another place pointed out, while the Egg Board was six to seven weeks behind in paying producers for eggs last year, the board purchased a corporate box at the Rio International tennis for $5 000. The board also became very mobile. The previous board had access to three or four vehicles, but now 15 vehicles are available for the use of the workings of the board.

During the past three or four years several inquiries have been undertaken into the egg industry, starting with a report commissioned by the South Australian Egg Board and carried out by Ernst and Whinney. Following this a report was ordered by the UF&S from by Ayers Finniss and, finally, the Minister of Agriculture appointed a working party in January 1990 to examine the future of the South Australian egg industry. The reviews, during the 1991 year, ordered by the Minister, cost the industry $137 000. All of these reports came to much the same conclusion and one must wonder why it was necessary to have so many investigations into the industry. In February I received a letter from a producer who was previously a member of the board, and he states as follows:

In reply I would advise I have a quota of 18 500 hens and sell the majority of my eggs direct to the marketplace. Having spent all my working life in the industry, it is disappointing to know that deregulation is 'just around the corner'. But what makes me really angry is to have witnessed the management performance of the South Australian Egg Board over the past four years. I was on the SAEB prior to the appointment of Mr John Feagan as chairman and, at that time, the Keswick operation was not in debt. In fact, since its inception in 1941 through to 1988, the SAEB had performed well and had not cost taxpayers a cent.

However, within a short space of four years, the SAEB is in debt to the tune of around $3 million. Exorbitant entertainment expenses, generous salary packages, fringe benefits and general bad management has led to this demise—of which the egg producers themselves had no control. It was a matter of 'say nothing or the egg industry would be deregulated'! The purchase of Red Comb, only to find out when they relocated to Cavan that it has been on the verge of bankruptcy; the enormous cost of purchase and setting up of a computerised system compatible with Keswick—only to move back to Keswick because of the unpracticality of Cavan; the enormous cost of purchase of three egg grading machines which were dismantled and brought back to Keswick only to be sold in total for $3 000 are, very quickly, an example of the foolish decisions that management made and the industry now has to wear!

Because of this enormous debt which the Government will have to pick up, there is apparently nothing to give back to the farmers who, over the years through their levies, have paid for the Keswick premises. With impending deregulation in South Australia, this certainly puts the local egg producers on a most unfair playing field with his counterpart in New South Wales, who received $15 per hen when Greiner deregulated their industry nearly three years ago. They not only have had three years in which to get their act together, but they were cashed up as well! Unfortunately, the South Australian egg farmers' future looks bleak in comparison. With no financial compensation, we are being asked to rent back the Keswick property, which is not only inefficient in its layout and operation but also comes complete with union troubles with little, if any, change to SAEB per week before the cooperative even handles an egg!

As positive as I would dearly like to be, I cannot see how this proposed co-op will succeed, given also the huge financial burden farmers are presently being asked to carry by the SAEB. Not only has the SAEB extended the time it takes in paying producers for their eggs, it has in the last eight months or so brought about a 30 per cent increase in charges. Previously, quota was paid according to the number of hens physically on the farm at any given time. Now, the SAEB are charging on the total quota. Other costs, including egg pulp and cartons, have also got out of hand.

I made that point earlier in my speech. The letter continues:

Although the Minister for Agriculture, Mr Lynn Arnold, intimated last week that consumers could see a drop in the price of eggs, it is unlikely that this will occur. As I have witnessed overseas and in Australia, deregulation generally brings about drastic price cutting demands by retailers on the producers. This in turn inevitably leads to financial disaster on the farm with no noticeable drop in price on the supermarket shelf. In fact, prices generally start rising! So far as quotas are concerned, these should remain in force at least until Victoria is deregulated—within the next one to two years. Although the egg industry in South Australia is not 'large', it plays a vital part in this State's economy and we could, in the future, witness an interstate monopoly.

In February approximately 80 per cent of egg producers indicated that they will join the new cooperative. This figure would represent about 62 per cent of the present State quota. About 10 per cent of producers have not made any commitment, and about 10 per cent have said they will remain independent. Two important matters which need to be emphasised in respect to the final offer of purchase are, first, the industry is deeply concerned by the Government's demand that the industry must pay for the land and buildings of the South Australian Egg Board at the Valuer-General's valuation. The industry is adamant that these assets were purchased by levies deducted from egg producers' returns by the board and therefore should be passed over to the industry at nil cost.

Secondly, whereas the Government has accepted a counter offer of $200 000 from the industry in response to the Government's original offer of $718 000 for the plant and equipment, the industry again strongly contends that these assets have been purchased by levies imposed by the board on egg producers' returns. The industry has accepted these two demands under protest.

Since my involvement with the then shadow Minister of Agriculture, Graham Gunn, in the last deregulation debate put up by Minister Mayes, I have observed a changing attitude by many South Australian egg producers who have been preparing for the inevitable. The deregulation of the New South Wales Egg Board in 1991 has, of course, sent signals to all Australian States which cannot be ignored. The senior members of the proposed cooperative assure me that they have majority egg producer support for the arrangements they have made with the Government—again some of these were made under protest. A group of four producers met with me, expressing a desire to retain hen quotas, one of them, I believe, the largest producer in the State. The cooperative is expected to start operating on 27 March 1992. The transfer of the South Australian Egg Board assets to the cooperative and the cost to the State Government of deregulating the sector is likely to be between $1.35 million and $3.1 million (Government figures), without any form of compensation to individual growers.

In the Committee stage we will move to have the assets of the Egg Board, that is, land and buildings, passed over to the cooperative. It has always been our argument that the growers or egg producers of this State have paid for and therefore own the land and buildings. In my judgment, it is immoral that the producers should have to lease the present assets of the board from the Government for $100 000 per year until they are in a position to repurchase their own assets. I will say now very clearly for the record that, when in Government, the Liberal Party will give the assets of the present board, that is, the land and buildings, to those who have hen quotas now—at the date that this legislation is passed. The present quotas will be divided into the value of the land and buildings and distributed to all present growers in accordance with their quota entitlement. It will not be the approximate $17 per bird paid out in the New South Wales settlement—in fact nowhere near it—but it wil amount to somewhere between $1.50 and $2, per bird depending on the valuation at the time. That is little enough when considering the amounts paid in levies over the years by the grower.

The history of the property of the South Australian Egg Board dates back to wartime provisions when the board was established. Some additional land has been added to the property during the past 30 years, the last purchase by the board being in 1973 from the South Australian Railways. Subsequently, all buildings, improvements and plant and equipment now owned by the South Australian Egg

Board on the Keswick property have been paid for from levies charged by the board against egg producers' returns. The large assets are valued at $920 000 for the land and buildings and $200 000 for the equipment. As a consequence, the board's operations were conducted on land and improvements it owned for many years, which were debt free.

Only recently has the board been faced with debt problems which have culminated in an extreme debt crisis. Some of its debt problems result from the purchase of the assets and businesses of the Red Comb cooperative and F.M. Pritchard Pty Ltd, who were grading agents of the board until November 1990. However, more importantly, the South Australian Egg Board has suffered from decisions made by a board which lacked the commercial skills to direct an egg handling and marketing system. This problem of board membership rests ultimately with the Minister, who is responsible for the appointments to the board. While the industry has a voice on the board through two ministerially-appointed members, the majority of board members, including the chairman, were selected and appointed by the Minister.

Over the past few years, under the chairmanship of Mr John Feagan, the board also suffered from the poor choice of executive staff who were frequently changed, to the detriment of its performance. After the takeover by the board of the industry's commercial operations in November 1990, the cost of handling, grading and marketing eggs increased dramatically. Another matter of great concern was the remuneration package arranged for Mr Feagan as the part-time Chairman. His salary was set at approximately $30 000, plus the full use of a Ford Fairlane car and an unknown superannuation package. This incredible reward should be compared with approximately $7 000 per annum for other part-time chairmen of other mainland States, who were all handling more eggs than SA, remembering that we produce about 7 per cent of the eggs in Australia.

Even Mr Feagan's successor, Mr Trevor Kessell, is proving to be an expensive part-time Chairman. His part-time remuneration package of $8 750 per annum is augmented by a further $90 per hour for approximately 25 hours per week and is the equivalent of $117 000 package per year. Is it any wonder that the South Australian Egg Board is in a financial mess? Despite coming under the audit control of the Auditor-General, the South Australian Egg Board's accounting system has been extremely inadequate. At the commencement of negotiations to deregulate the industry, the South Australian Egg Board was unable to provide an appropriate set of financial accounts to the Egg Industry Restructuring Interim Executive. Consequently, this committee was obliged to engage Price Waterhouse at the cost of $11 000 to prepare an adequate due diligence report to ascertain the board's financial position. An outside accounting firm is having to come in and actually go through the board's books to find out what was its due diligence position.

In his summing up of this report, Mr Alan Herald, a partner of Price Waterhouse who was responsible for the investigation, reported to the restructuring interim executive that the South Australian Egg Board was technically insolvent.

The Minister of Agriculture will try to argue that the people of South Australia own the present board's assets. They own them through purchasing eggs. It is a fairly convoluted and somewhat amazing argument. It falls down badly in one aspect alone. If the prices of eggs fall, which in real terms they have done since at least 1980—in fact, using average farm gate prices of 82c since 1980, the price had fallen to 59c in 1990—the Minister's argument would stand up only if the levy collection fell. The levy has not fallen, so the grower is, in effect, deducting from his take-home pay an increasing percentage dedicated to the levy payment. This has been demonstrated even further over the past eight months to February 1992 when the levy per bird has increased from 6c to 28c, whereas the average price of eggs has fallen by an average of 23c per dozen in the same period.

If the Minister is fair, I ask: who is paying the levy—the purchaser of eggs or the producer? Even if it is a mixture of both, at the very least it must be the producer who has purchased the assets of the board over and over again.

The Minister of Agriculture will also try to argue—and does—that he would accept the proposition of the growers having the assets if they also accept the liabilities of the present board. I have already set out some of the excesses and bad management of the present Egg Board. A dramatic increase in handling, grading and marketing could be felt. Anyway, the New South Wales situation did not affect the grading and handling responsibilities of the board, the $137 000 review paid for by the growers and the high cost of the executive management of the board. I understand that staff numbers are at about 45 with 20 to 25 administration and pulping floor staff eligible for redeployment. On 12 February the Minister of Agriculture stated:

> The transfer of the South Australian Egg Board assets to the industry and the cost to the State Government of deregulating the sector is likely to be between a minimum of $1.35 million and a maximum of $3.1 million.

My first comment on that is that the Government or the Minister has not transferred all of the Egg Board's assets to the industry. I have addressed that point. It is not clear to me exactly what is the breakdown of the $1.35 million or the $3.1 million used by the Minister.

Loans to the new cooperative may be part of that calculation, but I suspect that staff redeployment will form the major portion of the liability that the Minister claims. His wide disparity between the $1.35 million and the $3.1 million will obviously depend on what staff numbers stay with the cooperative and what staff numbers will need redeployment. I put it squarely to honourable members that the responsibility for staff lies squarely with the Government, not with the growers and producers. In his second reading speech the Minister said:

> The staff currently employed by the board are all anxious that the grading activities continue as a support to the industry and are naturally also concerned about their future employment. The transition from regulated to deregulated market as soon as possible is the best course to ensure the concerns are addressed.

One may ask: why is the Government not so concerned about the producers and their employees and whether they will have a job after 27 March? They get no mention and do not have jobs waiting for them after the date for the setting up of the cooperative.

The Minister has allowed an unsatisfactory position to arise in relation to the present administration of the board, and it is his responsibility. The Act is his responsibility and he must face the consequences, but he will not do so; he will run away from it saying that it is everyone else's fault. We argue that the growers own the assets and have paid for them and that they have not been responsible for the liabilities.

I need to refer briefly to the financial arrangements entered into between the Government and the soon to be set up cooperative. I acknowledge that a concessional loan of $750 000 will be made available by the Government at an interest rate of 8 per cent per annum payable annually in arrears. This will be subordinated to provide the cooperative

with a capital base for a period of at least five years. Also, a line of credit up to $500 000 will be made available by the Government on commercial terms with interest set at market rates applying at the time. This facility will be subject to annual review and negotiation. A floating charge will apply as security over the cooperative's assets for the two loan facilities.

I have always thought it immoral for a Government to encourage an industry under legislation and then to deregulate it without compensation. It can be argued that regulation is to benefit not only the producer but equally the purchasing public. One could spend more time developing and substantiating that argument.

In his second reading explanation the Minister said that quality control will be safeguarded by the South Australian Health Commission and that egg packaging regulations will be administered by the Department of Public and Consumer Affairs under the Packages Act 1967. I am unclear how these departments will administer the Act. Do they inspect shops and fine producers, or will the cooperative be found liable?

The Opposition supports the Bill, with the refinement that it will move an amendment which will make it a better Bill, and wishes the new cooperative and, indeed, all egg producers well in the pretty hard times that they will obviously have in future.

The Hon. PETER DUNN secured the adjournment of the debate.

MFP DEVELOPMENT BILL

Received from the House of Assembly and read a first time.

ADJOURNMENT

At 10.6 p.m. the Council adjourned until Tuesday 24 March at 2.15 p.m.